SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0267 Atlanta, February 28, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WARREN SKILLERN v. WALLACE ROGERS, JR.

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0002

RECEIVED IN OFFICE
2011 MAR 21 PM 1:02
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 17, 2011

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

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

Pamela M. Fishburne , Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 02, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0001

UNIFUND CCR PARTNERS ET AL V. BETTY MEHRLANDER

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

2009V454

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 2 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 04, 2010

Honorable Court of Appeals hereby passes the following order:

A11D0002. WARREN SKILLERN v. WALLACE ROGERS, JR.

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

93-001

10CV0986

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 4 2010

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

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

Clerk.

Holly K. O. Sparrow

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 04, 2010

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 **S11C0267**.

WARREN SKILLERN v. WALLACE ROGERS, JR.

Clerk, Supreme Court of Georgia

OCT 14 2010

OCT 14 2010

Case No. A11D0002
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, FEB -7 2008

The Court of Appeals hereby passes the following order:

MD08-012. WARREN SKILLERN v. THE STATE

Warren Skillern, the pro se movant, has filed a Motion to Recall the Remittitur in A07A2487, Skillern v. The State. That appeal was dismissed by this Court's order of August 27,2007. Thereafter, Skillern filed an Application for Certiorari with the Supreme Court of Georgia which was denied by that Court on November 27, 2007. The remittitur issued from this Court on November 29,2007 divested this Court of jurisdiction.

This Court cannot recall the remittitur, unless it was issued through mistake, neglect, inadvertence or the like. *Slappey* v. *Georgia Power,* 109 Ga. App. 850 (137 SE2d 537) (1964). The issuance of the remittitur in this case did not occur under such circumstances as would permit this Court to recall the remittitur. As such, Skillern's remedy to have the remittitur recalled is to petition the Supreme Court of Georgia or the Supreme Court of the United States. Therefore, Skillern's motion is hereby DENIED.

This Court notes that since his initial appeal in 1996, Skillern has filed some 29 additional actions in this Court. Skillern has had a full and complete review of the issues in his convictions raised on appeal. Additionally, it appears the Supreme Court of Georgia has done a thorough and complete job in reviewing his Application for Habeas Corpus and other prayers for relief, that Court having at least 29 different actions in his name.

The following lists enumerate the cases docketed in this Court and the Supreme Court of Georgia in the name of Warren Skillern.

The Court of Appeals of Georgia

A96A2212	Warren Skillern v. The State
A99A1150	Warren Skillern v. The State
A99A1417	Warren Skillern v. The State
A02DOO58	Warren Skillern v. The State
A03A1572	Warren Skillern v. Judge Shepherd Howell
A03A2184	Warren Skillern v. Fred Brown
A03D0446	Warren Skillern v. The State
A04AOO69	Warren Skillem v. The State
A04D0146	Warren Skillern v. The State
A05DOO17	Warren Skillern v. The State
A06A0802	Warren Skillern v. The State
A06D0114	Warren Skillern v. Kathy Carter
A06D0139	Warren Skillern v. Kathy Carter
A06D0211	Warren Skillern v. Wallace Rogers
A06D0252	Warren Skillern v. Kathy Carter
A07A2487	Warren Skillern v. The State
A07D0212	Warren Skillern v. Robert Paris, Sheriff
A08D0145	Warren Skillern v. Robert Paris, Sheriff
MD-231	Warren Skillern v. The State
MD-06-09	Warren Skillern v. The State
MD-06-12	Warren Skillern v. The State

MD-06-13	Warren Skillern v. The State
MD-06-24	Warren Skillern v. The State
MD-07-15	Warren Skillern v. The State
MD-08-05	Warren Skillern v. The State
MD-08-07	Warren Skillern v. The State
MD-08-08	Warren Skillern v. The State
MD-08-10	Warren Skillern v. The State
MD-08-12	Warren Skillern v. The State
MD-08-15	Warren Skillern v. Paris, et al.

The Supreme Court of Georgia

SOlD1692	Warren Skillern v. The State
S02Dl773	Warren Skillern v. The State
S0201904	Warren Skillern v. Shepherd Lee Howell, Judge
S03Al229	Warren Skillern v. Shepherd Lee Howell, Judge
S03Dl593	Warren Skillern v. The State
S03D1704	Warren Skillern v. Albert Rahn, III, et al.
S03D1855	Warren Skillern v. Charles P. Rose, Judge
S03Hl863	Warren Skillern v. Hugh Smith, Warden
S04C0562	Warren Skillern v. The State
S04Cl185	Warren Skillern v. The State
S04D0254	Warren Skillern v. Department of Corrections
S04Dl072	Warren Skillern v. The State
S04Hl406	Warren Skillern v. Hugh Smith, Warden
S0402020	Warren Skillern v. Frank C. Mills, III, Judge
S05C0475	Warren Skillern v. The State

S05D0573	Warren Skillern v. The State
S0501430	Warren Skillern v. Sherie M. Welch, Clerk
S05T0303	Warren Skillern v. The State
S05T1263	Warren Skillern v. Tony Howerton, Warden
S06C1074	Warren Skillern v. Wallace Rogers, Jr.
S06C1224	Warren Skillern v. Kathy Carter, et al.
S06D0936	Warren Skillern v. Kathy Carter, et al.
S06HOOl6	Warren Skillern v. Hilton Hall, Warden
S06H0555	Warren Skillern v. Hugh Smith, Warden
S06T1556	Warren Skillern v. The State
S07C1345	Warren Skillern v. Robert Paris, Sheriff, et al.
S07C1904	Warren Skillern v. The State
S07D1905	Warren Skillern v. The State
S08C0056	Warren Skillern v. The State

Parties are not entitled to re-litigate their appeals. To do so trivializes the entire judicial process and wastes valuable resources of the courts.

On August 7, 2007, this Court issued an order in MD 07-015, Warren Skillern v. The State, stating that "Because Skillern has filed numerous applications and motions in this Court pertaining to the same closed appeal, we caution him against filing future motions or pleadings in this Court that have no substantial basis in law." Additionally, this Court cautioned the movant that monetary penalties may result and that repeated frivolous abuse of litigation may result in his access to this Court being restricted. See *Smith* v. *Adamson, 226 Ga. App.* 698 (487 *SE2d 386)(1997).*

Sincethis Court's order in MD07-015, Skillern has filed six Rule 40(b) Emergency

Motions and has had one direct appeal docketed. We note that the date of the Notice of Appeal in the direct appeal was prior to the Court's order in MD07-015.

Since Skillern's filings subsequent to the Court's order of August 7, 2007 have all been frivolous and/or abusive litigation, it is hereby ordered that Skillern be fined $ 250.00, and that the clerk of this Court notify and direct the Superintendent of the facility where Skillern is being housed to freeze his prison inmate account until that amount is accumulated. The Superintendent of the facility is then directed to forward the $250.00 fine to the clerk of this Court as set out in Court of Appeals Rules 7 and 15.

Skillern is further advised that the filing of continued frivolous and abusive litigation matters may result in additional fines and penalties.

Finally, this Court orders and directs that the clerk of this Court not docket or file any future pleadings from Skillern until such time as the Court has reviewed the pleadings and made a detennination that there is a justiciable issue to be decided by the Court. Without such review and decision, this Court will order and direct that the clerk return the pleadings to Skillern.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB -7 2008

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

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

Clerk.

Willie L. Martin, Jr.

Court of Appeals
of the State of Georgia

ATLANTA, AUG -7 2007

The Court of Appeals hereby passes the following order:

MD07-15. Skillern v. The State

On August 6, 2007, Warren Skillern filed the instant "Rule 40 (b) Motion" seeking to challenge an unspecified order arising from his Cherokee County Case No. 93 CR 0432. Skillern contends that he has a right to "a timely and proper appeal of [his] convictions," and to that end, this Court should vacate its decision in Case No. A99A1417. In that opinion, we affirmed Skillern's convictions for child molestation, aggravated child molestation, rape, and cruelty to children. *Skillern v. State*, 240 Ga. App. 34 (521 SE2d 844) (1999). Since we issued that opinion, Skillern has challenged or collaterally attacked his convictions on numerous occasions, primarily in the form of extraordinary motions for new trial, appeals from which were denied by this Court. See, e.g., Case Nos. A06D0252, A06D0139, A06A0802, A06D0114, A05D0017, A04A0069, and A04D0146.

1. Because Skillern has not properly identified an appealable order of a lower court for which this Court has jurisdiction to review, we are required to DISMISS his motion for lack of jurisdiction.

2. We further note for Skillern's edification that the Rule 40 (b) emergency powers of this Court are extremely limited. We may only issue "such orders or give direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot." The petitioner has not shown us that exercising our inherent power would preserve a contested issue in a matter that is ripe for appellate review in this Court. In fact, he cites only to closed actions for which all avenues of appeal appear to be exhausted. Therefore, had we not dismissed the motion, we would have denied it.

3. Because Skillern has filed numerous applications and motions in this Court pertaining to the same closed appeal, we caution him against filing future motions or pleadings in this Court that have no substantial basis in law. Rule 15 permits this Court to levy penalties for frivolous appeals, applications, or motions against a party or his counsel (including pro se litigants pursuant to Rule 1 (d)) and the penalty shall constitute a money judgment that may be levied against a prison account. Finally, it is our duty to warn Skillern that repeated frivolous or abusive litigation may result in his access to the courts being restricted. See *Smith v. Adamson*, 226 Ga. App. 698 (487 SE2d 386) (1997).

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

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

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

Willie L. Martin, II, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 04, 2010

Honorable Court of Appeals hereby passes the following order:

A11D0002. WARREN SKILLERN v. WALLACE ROGERS, JR.

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

93-001

10CV0986

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 4 2010

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

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

Clerk.

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, September 2, 2010

The Court of Appeals hereby passes the following order:

A11D0002. SKILLERN v. ROGERS.

Warren Skillern filed this application for discretionary appeal from the trial court's August 4, 2010 order denying several pro se motions. In violation of this Court's rules, Skillern has not included copies of the motions that led to the order he seeks to appeal. See Court of Appeals Rule 31 (b). Moreover, his bare bones application provides no cogent argument as to why his application should be granted.

To date, Skillern has filed approximately 30 actions in this Court. Thus, by order dated February 7, 2008, we fined Skillern for frivolous filing and directed the clerk of this Court not to docket any future pleadings without first having reviewed such pleadings to ascertain if there is a justiciable issue. This application was nonetheless docketed. Because we find the docketing was improvident, we hereby DISMISS the application for discretionary appeal.

We further find that Skillern has forfeited his ability to file additional actions in forma pauperis. OCGA § 42-12-7.2 provides:

> In no event shall a prisoner file any action in forma pauperis in any court of this state if the prisoner has, on three or more prior occasions while he or she was incarcerated or detained in any facility, filed any action in any court of this state that was subsequently dismissed on the grounds that such action was frivolous or malicious, unless the prisoner is under imminent danger of serious physical injury.

Skillern has had numerous actions dismissed on multiple grounds. At least two

– MD07-15 and MD08-012 – were found to be frivolous. We find this action to be frivolous as well. Skillern is thus barred from filing any additional action in forma pauperis. See OCGA § 42-12-7.2.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP - 2 2010

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

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

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 07, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0003

PATRICIA CAMPBELL V. ATLANTA INDEPENDENT SCHOOL SYSTEM ET AL

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

71001

2009CV178317

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 7 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0004

ROY GRAY, JR., V. THE STATE

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

70001

2007CR154

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 2010

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

Holly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0005

ROY GRAY, JR., V. THE STATE

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

70002

2007CR155

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 2010

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

Holly K. A. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0006

ROY GRAY, JR., V. THE STATE

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

70003

2007CR156

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 2010

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

Holly K. A. Spears

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 01, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0007

IN THE INTEREST OF: P. M., A CHILD (FATHER)

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

92001

09CV1962

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 1 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 07, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0008

RICHARD EARL MUNGIN V. THE STATE

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

94001

1S07CR060

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 7 2010

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

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA, September 1, 2010

The Court of Appeals hereby passes the following order:

A11D0009. In the Interest of I. M. H. and S. L. H., children (father)

On April 21, 2010, the trial court terminated the father's parental rights to his two daughters, I. M. H. and S. L. H. Thirty-three days later, on May 24, 2010, the father moved for a new trial. The trial court denied the father's motion, and the father filed this application for discretionary appeal on August 13, 2010.

We lack jurisdiction. An application for discretionary review must be filed within 30 days of the order to be appealed. OCGA § 5-6-35 (d). Although a motion for new trial generally extends this deadline, such motion is not valid unless filed within 30 days after entry of judgment. See id.; OCGA § 5-5-40 (a); *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990). Because the father failed to file his new trial motion within 30 days of the order terminating his parental rights, the motion is void and did not toll the application deadline. See *Wright*, supra. Accordingly, his application, filed 114 days after entry of the termination order, is hereby DISMISSED as untimely. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP - 1 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , *Clerk.*

LC number(s): 14609J00068 & 14609J00436

Court of Appeals
of the State of Georgia

ATLANTA, September 22, 2010

The Court of Appeals hereby passes the following order:

A11D0009. IN THE INTEREST OF I. M. H. et al., CHILDREN.

The father of I. M. H. and S. L. H. has filed a motion for reconsideration in the above-styled case, asking this Court to reconsider our order dismissing his application for discretionary review. The trial court terminated the father's parental rights to his two daughters on April 21, 2010. He filed a motion for new trial over 30 days later. The trial court denied the motion, and the father filed an application for discretionary appeal on August 13, 2010. Because the motion for new trial was filed late, we concluded that it did not toll the time for filing the discretionary application. Accordingly, we dismissed as untimely the application, which was filed 114 days after entry of the termination order.

In his motion for reconsideration, the father admits that dismissal was proper based on the materials submitted with his application. He argues, however, that other circumstances he did not explain in his original submission require reconsideration. According to the father, his counsel realized almost immediately that the motion for new trial was untimely. Counsel thus filed an extraordinary motion for new trial on May 27, 2010. It is unclear whether the trial court ruled on that motion. But the court granted the father an "out of time" appeal on June 16, 2010, and, based on that ruling, apparently deemed his previously filed motion for new trial as timely. The court ultimately denied the motion for new trial, and the father filed his application within 30 days of that denial.

Citing this sequence of events and the granted "out of time" appeal, the father contends that his motion for new trial and subsequent application were timely. Georgia law, however, does not permit an out-of-time application for discretionary

review. See *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001). Moreover, our Supreme Court has held that out-of-time appeals are not available in civil cases. See *In the Interest of B. W.*, 1999 Ga LEXIS 989 (Case No. S99C1333, decided November 15, 1999); *Woodall v. Woodall*, 248 Ga. 172 (281 SE2d 619) (1981); see also *Register v. Elliott*, 285 Ga. App. 741, 744 (647 SE2d 406) (2007) ("although the superior court may grant an out-of-time appeal in a criminal case, such relief is not available in a civil case") (footnote omitted). The father, therefore, was not entitled to the "out-of-time" relief granted by the trial court.

As found in our dismissal order, the father's initial failure to file a timely motion for new trial was fatal to his application. Accordingly, we DENY his motion for reconsideration.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 22 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0010

IN THE INTEREST OF: J. W., & N. W., CHILDREN (FATHER)

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

95001

14609J00554

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 07, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0011

VLADIMIR VALENTINE STUDIO, LLC ET AL V. MATERIALS MARKETING, LTD D/B/A MATERIALS MARKETING ARCHITECTURAL STONE & TILE

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.

99001

2009VS157085

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 7 2010

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

Kelly K. A. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 06, 2010

The Court of Appeals passed the following order

Case No. A11D0012

ALI S. MUHAMMAD V. DEUTSCHE BANK NATIONAL TRUST

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 06, 2010

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

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

Clerk.

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 07, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0012

ALI S. MUHAMMAD V. DEUTSCHE BANK NATIONAL TRUST

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

98001

2010CV00237

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP - 7 2010

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 09, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0013

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

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

97001

158010J039

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 9 2010

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

Kelly K. O. Spence

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0014

JOHNNY D. THORNTON V. WINIFRED HEMPHILL

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.

96001

08CV0273

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 14 2010

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

Holly K. O. Spanos

Court of Appeals of the State of Georgia

ATLANTA, August 27, 2010

The Court of Appeals hereby passes the following order:

A11D0015. TAFOYA v. THE STATE.

On August 19, 2010, Larry Tafoya filed this discretionary application seeking review of the trial court's July 13, 2010 order denying and dismissing his pro se motion and affidavit. 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). Because Tafoya filed his application 37 days after entry of the order he seeks to appeal, his application is untimely. The application is therefore ***DISMISSED*** for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 27 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

LC number(s): 08B1058

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 15, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0016

GREER, KLOSIK, DAUGHERY, SWANK AND MCCUNE ET AL

V. CHILDREN'S HEALTHCARE OF ATLANTA, INC., ET AL

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

90002

06CV4104

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 15 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 08, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0017

CHRISTOPHER DANIELS V. THE STATE

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

93002

10CR36

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 8 2010

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

Holly K. O. Loarca

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0481 Atlanta, April 18, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BRIAN R. SMITH v. JERDAN ENTERPRISES, 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0018

MAY 6 2011

RECEIVED IN OFFICE
2011 MAY -6 AM 11:27
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 05, 2011

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

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

Pamela M. Fishburne, 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: November 30, 2010

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 **S11C0481**.

SIMCOM INTERNATIONAL HOLDINGS, INC., et al. v. JERDAN ENTERPRISES, INC., et al.

Clerk, Supreme Court of Georgia

Case No. A11D0018
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

DEC 01 2010

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals passed the following order

Case No. A11D0018

SIMCOM INTERNATIONAL HOLDINGS, INC., ET AL V. JERDAN ENTERPRISES, 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 NOV 10, 2010

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

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

Clerk.

Kelly K. O. Lomax

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0018

SIMCOM INTERNATIONAL HOLDINGS, INC., ET AL V. JERDAN ENTERPRISES, INC., ET AL

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

71002

2008CV154719

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 22 2010

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

Holly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 15, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0019

DANIEL PARKMAN V. THE STATE

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

92002

2010CR117

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 15 2010

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, September 27, 2010

The Court of Appeals hereby passes the following order:

A11D0020. PARKMAN v. THE STATE.

On September 2, 2010, this Court dismissed Daniel Parkman's application for discretionary appeal on the basis that it was not timely filed. We noted that the order was entered on July 20, 2010. Parkman filed a motion for reconsideration, asserting that the order was dated July 27, 2010 and thus his application was timely.

Pursuant to Court of Appeals Rule 31 (e), "[d]iscretionary applications must contain a stamped 'filed' copy of the trial court's order or judgment from which the appeal is sought." Here, Parkman submitted a hybrid order that contained both the show cause order and the order revoking probation. The only file stamp on the order was July 20, 2010. This apparently was the date the show cause order was entered.

Given Parkman's failure to include a stamped copy of the revocation order, we are authorized to dismiss the application. As it appears the application was timely filed, however, we will exercise our discretion and GRANT the motion for reconsideration. 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 SEP 27 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence , *Clerk.*

LC number(s): 2010CR78

Court of Appeals of the State of Georgia

ATLANTA, September 2, 2010

The Court of Appeals hereby passes the following order:

A11D0020. PARKMAN v. THE STATE.

On August 20, 2010, Daniel Parkman filed this application for discretionary appeal seeking to appeal a July 20, 2010, order revoking his probation. 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). Because Parkman's application was filed 31 days after the order he seeks to appeal, it is untimely. Accordingly, Parkman's application for discretionary appeal is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP - 2 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

LC number(s): 2010CR78

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0021

EMMANUEL JAQUISE BAILEY V. THE STATE

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

91002

06CR35

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 22 2010

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

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

Clerk

Court of Appeals
of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: SEP 17 2010

A11D0022. DORENE S. WARD v. RICHARD L. WARD.

Dorene S. Ward and Richard L. Ward were divorced in 2007. The final judgment and decree of divorce granted joint legal custody of the parties' two minor children to both parents, but awarded primary physical custody to Richard Ward. In February 2008, Dorene Ward filed a complaint alleging that Richard Ward was in contempt of the divorce decree. She also sought primary physical custody of the children and a modification of her child support obligations. The trial court entered an order essentially denying Dorene Ward's requested relief, and this discretionary application followed.

The issues in this case arise out of the provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, this case also involves allegations of contempt of other provisions of the divorce decree, including those involving child support. The Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony.

LC number(s): 2008CV089

Jurisdiction over actions to modify a divorce decree's child support provisions, therefore, lies in the Supreme Court. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010); *Smith v. Smith*, 254 Ga. 450, 451 (1) (330 SE2d 706) (1985). Accordingly, we lack jurisdiction over this application, which is hereby TRANSFERRED to the Supreme Court for disposition. See *Spurlock*, supra at 513-514.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 17 2010

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA September 8, 2010

The Court of Appeals hereby passes the following order:

A11D0023. REESE v. THE STATE.

Kuwanza Reese was convicted of possessing cocaine with intent to distribute near a public housing project. He filed this application for discretionary appeal to challenge the denial of his motion in arrest of judgment. See OCGA § 17-9-61 (b). The denial of such a motion, however, does not fall within any provision of OCGA § 5-6-35, the discretionary appeal statute. Therefore, the order denying his motion is subject to a direct appeal.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby ***GRANTED***. Reese shall have 10 days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial 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 SEP - 8 2010

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

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

Kelly K. A. Loomis, *Clerk.*

LC number(s): 10R022

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 15, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0024

WILLIE GAFFNEY V. MICHAEL L. THURMOND

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

98002

2010CV183464

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 15 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, August 30, 2010

A11I0013. MANJIRI KARLE v. EURIS BELLE ET AL .

The Honorable Court of Appeals hereby passes the following order:

It appearing the DISCRETIONARY application A11D0025 was incorrectly filed due to clerical error, it is hereby ordered that said application is hereby changed to an INTERLOCUTORY application with the case number A11I0013 as stated above.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 30 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

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

Clerk.

Holly K. D. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 16, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0026

SHIRLEY R. WATSON V. SANDRA R. SNOW A/K/A SANDY SNOW

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

96002

2009V42058

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 16 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA,September 10, 2010

The Court of Appeals hereby passes the following order:

A11D0027. SCOTT v. ESTATE OF GERALDINE SCOTT.

On July 15, 2010, we granted Richard J. Scott's application for discretionary appeal challenging a probate court ruling and directed him to file his notice of appeal with the probate court within ten days. The tenth day was Sunday, July 25, 2010, so the notice of appeal was due Monday, July 26, 2010. Scott filed his notice of appeal on Tuesday, July 27, 2010. The probate court dismissed the notice of appeal, and Scott filed this application.

A trial court's order dismissing an otherwise properly filed notice of appeal on the ground that it is untimely is directly appealable. See *Johnson v. State*, 246 Ga. App. 239, 240 (1) (539 SE2d 914) (2000); *Sunn v. Mercury Marine*, 173 Ga. App. 593 (327 SE2d 562) (1985). Accordingly, this application is hereby ***GRANTED*** pursuant to OCGA § 5-6-35 (j). Scott shall have ten days from the date of this order to file his notice of appeal in the probate court. OCGA § 5-6-35 (g). If, however, he has already filed a notice of appeal from the probate court's order dismissing his earlier notice of appeal, he need not file another notice. The clerk of the probate 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 SEP 10 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

LC number(s): 20071089

Court of Appeals of the State of Georgia

ATLANTA, September 16, 2010

The Court of Appeals hereby passes the following order:

A11D0028. UDOINYION v. MICHELIN NORTH AMERICA, INC.

On September 9, 2010, we granted plaintiff Sunday Udoinyion's application for discretionary appeal pursuant to OCGA § 5-6-35 (j) and directed him to file a notice of appeal in the superior court within ten days. His case, however, originated in the state court, not the superior court. Therefore, our order of September 9, 2010, is ***VACATED***, and Udoinyion's application for discretionary appeal is again ***GRANTED*** pursuant to OCGA § 5-6-35 (j). Udoinyion shall have ten days from the date of this order to file a notice of appeal in the state court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the state court is ***DIRECTED*** to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 16 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

LC number(s): 09C12075

Court of Appeals of the State of Georgia

ATLANTA, September 9, 2010

The Court of Appeals hereby passes the following order:

A11D0028. UDOINYION v. MICHELIN NORTH AMERICA, INC.

Plaintiff Sunday Udoinyion filed this application for discretionary appeal from the trial court's July 29, 2010 order granting summary judgment to defendant Michelin North America, Inc. No application is required, however, as an order granting summary judgment is subject to direct appeal. See OCGA § 9-11-56 (h). This Court will grant an otherwise timely discretionary application if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. OCGA § 5-6-35 (j). Since it does not appear that Udoinyion has filed a notice of appeal, this application for discretionary appeal is hereby GRANTED.

Udoinyion shall have 10 days from the date of this order in which to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP - 9 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

LC number(s): 09C12075

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0476 Atlanta, April 18, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LUMPKIN COUNTY et al. v. 400 NORTH LANDFILL, 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0029

MAY - 6 2011

RECEIVED IN OFFICE
2011 MAY -6 AM 11:26
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 05, 2011

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

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

Pamela M. Fishburne, 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: November 30, 2010

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 **S11C0476.**

LUMPKIN COUNTY et al. v. 400 NORTH LANDFILL, LLC

Clerk, Supreme Court of Georgia

Case No. A11D0029
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, NOVEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0029

400 NORTH LANDFILL, LLC V. LUMPKIN COUNTY, GEORGIA ET AL

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

71003

2007CV834

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 10 2010

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

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA
Case No. S11D0091

Atlanta September 30, 2010

2010 OCT 18 AM 9:08

FILED IN OFFICE
OCT 18 2010
CLERK, COURT OF
APPEALS OF GEORGIA

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LUMPKIN COUNTY et al. v. 400 NORTH LANDFILL, LLC

From the Superior Court of Lumpkin County.

The Court of Appeals has transferred this application for discretionary appeal to this Court pursuant to this Court's jurisdiction over cases involving extraordinary remedies. Ga. Const. of 1983, Art. VI, Sec. VI, Para. III (5). However, the trial court's ruling on partial summary judgment did not grant, deny, or otherwise address the still-pending request for mandamus. See *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006); *Lamar County v. E.T. Carlyle Co.*, 277 Ga. 690, 691 (1) (594 SE2d 335) (2004). Accordingly, it is hereby ordered that the application be returned to the Court of Appeals for disposition.

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 10, 2010

The Court of Appeals hereby passes the following order:

A11D0029. 400 North Landfill, LLC v. Lumpkin County, Georgia et al.

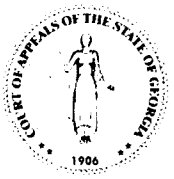
After the Lumpkin County Board of Commissioners denied its request for a land use compliance letter, 400 North Landfill, LLC ("400 North") petitioned for a writ of mandamus, declaratory relief, and equitable relief against Lumpkin County and the Board (collectively, "Lumpkin County"). 400 North subsequently moved for partial summary judgment, arguing that Lumpkin County's Land Use Code is void and that it is "entitled to the immediate issuance of the requested land use compliance letter." The trial court granted the motion, and Lumpkin County filed an application for discretionary appeal.

The Supreme Court has exclusive appellate jurisdiction over all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5). By granting summary judgment, the trial court arguably determined that Lumpkin County must issue 400 North a land use compliance letter.[1] Accordingly, in deference to the Supreme Court's jurisdiction over mandamus cases, this application is hereby TRANSFERRED to the Supreme Court for disposition.

---

[1] The trial court's order granted 400 North summary judgment on Count 1 of the petition, which asserted that 400 North "is entitled to a zoning/land use compliance letter."

LC number(s): 2007CV834



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 10 2010

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

Honorable Court of Appeals hereby passes the following order:

A11D0030. BRIAN BROOKS v. THE STATE

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

92-003

97R205

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 10 2010

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, September 22, 2010

The Court of Appeals hereby passes the following order:

A11D0030. Brian Brooks v. The State.

Brian Brooks seeks discretionary review of the trial court's order directing the clerk of court to return, without filing, Brooks's motion to correct a void sentence. A direct appeal lies from an order denying or dismissing a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216, 218 n.1 (686 SE2d 786) (2009). But a sentence is void only if the trial court imposes a punishment the law does not allow. See *Jordan v. State*, 253 Ga. App. 510, 511 (1) (559 SE2d 528) (2002). Brooks does not argue that his sentence exceeded the legal limits; he complains that he was impermissibly charged as an adult for certain offenses. Because Brooks has not raised a colorable claim that his sentence is void, we hereby DISMISS this application for lack of jurisdiction. See, e.g., *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 22 2010

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

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

Kelly K. O. Lamar , *Clerk.*

LC number(s): 97R205

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 06, 2010

The Court of Appeals passed the following order

Case No. A11D0031

DERRICK B. JACKSON V. RICHARD CHATMAN

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 06, 2010

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 15, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0031

DERRICK B. JACKSON V. RICHARD CHATMAN

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

94003

2009CV0106

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 15 2010

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0032

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

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

91003

09J148

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 22 2010

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

Holly K. A. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, September 8, 2010

The Court of Appeals hereby passes the following order:

A11D0033. BLACKMORE v. BLACKMORE.

David Brian Blackmore and Dawn A. F. Blackmore were divorced in 2006. The final judgment and decree of divorce granted the parties joint physical and legal custody over their two minor children. Later that year, the custody arrangement was modified, and David Blackmore obtained primary physical custody over the children. In February 2008, Dawn Blackmore filed a petition to modify custody yet again, seeking, among other things, additional custodial time. The trial court subsequently modified custody. This application for discretionary appeal followed.

Under the amended version of OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody" are directly appealable. See *Moore v. Moore-McKinney*, 297 Ga. App. 703, 704 (1) (678 SE2d 152) (2009). The amendment applies "to all child custody proceedings and modifications of child custody filed on or after January 1, 2008." Ga. Laws 2007, p. 554, § 8. Because the new version applies here, the order David Blackmore seeks to challenge is directly appealable.

LC number(s): 08101432

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. David Blackmore shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial 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 SEP - 8 2010

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 23, 2010

The Court of Appeals hereby passes the following order:

A11D0034. Shannon Hillyard v. Craig Hillyard.

Shannon Hillyard seeks discretionary review of the trial court's award of OCGA § 9-15-14 attorney fees to Craig Hillyard following 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 Shannon Hillyard 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 SEP 23 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

LC number(s): 2008CV154335

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 07,2010.

A11I0023.SONCEL, INC., v. TIMOTHY E. GILBERT ET AL .

The Honorable Court of Appeals hereby passes the following order:

It appearing the DISCRETIONARY application A11D0035 was incorrectly filed due to clerical error, it is hereby ordered that said application is hereby changed to an INTERLOCUTORY application with the case number A11I0023 as stated above.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP - 7 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

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

Clerk.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, September 27, 2010

The Court of Appeals hereby passes the following order:

A11D0036. WORDEN v. THE STATE.

Douglas Worden pled guilty to first degree arson in September 2004. Sometime thereafter, Worden filed a motion to modify sentence, which the trial court denied by order entered January 15, 2010.[1] Worden seeks to appeal this ruling, and he filed an application for discretionary appeal on September 1, 2010.

It is unclear why Worden filed an application for discretionary appeal as the denial of a timely-filed motion for sentence modification may be appealed directly. See, e. g., *Adams v. State*, 298 Ga. App. 518 (680 SE2d 429) (2009); *Burg v. State*, 297 Ga. App. 118 (676 SE2d 465) (2009). Even if the motion was untimely, it does not appear that the order denying it would be subject to the discretionary appeal procedure. See OCGA § 5-6-35 (a).

Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Worden filed his application 229 days after entry of the order at issue here. Accordingly, his application is untimely and must be DISMISSED for lack of jurisdiction.

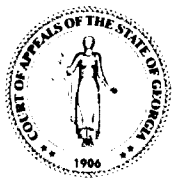
Because Worden is represented by counsel – and because he may have had a

---

[1] In violation of this Court's rules, Worden has not included with his application a copy of the "motion which led directly to the order . . . being appealed." See Court of Appeals Rule 31 (b). Thus, we cannot ascertain whether the motion was timely filed.

right to direct appeal – he is hereby informed of the following in accordance with *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995): This appeal has been dismissed because of your counsel's failure to file a timely notice of appeal. If you still wish to appeal, you may petition the trial court for leave to file an out-of- time appeal. If the trial court enters an order granting your request, you will have 30 days from the filing date of that order to file a notice of appeal referencing your conviction. If the trial court enters an order denying your request, you will have 30 days from the filing date of that order to file a notice of appeal referencing the denial of your request for an out-of-time appeal.

The Clerk of Court is directed to send a copy of this order to Worden as well as to Worden's attorney, and the latter is also directed to send a copy to Worden.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 27 2010

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 14, 2010

The Court of Appeals hereby passes the following order:

A11D0037. In the Interest of L. C., a child (mother).

The mother of sixteen-year-old L. C. has filed an application for discretionary review, seeking to challenge the juvenile court's order finding L. C. to be deprived and directing the mother to cooperate with the Department of Family and Children Services. Although an order terminating parental rights is subject to the discretionary appeal procedures, a deprivation finding may be appealed directly. See OCGA § 5-6-35 (a) (12); *In the Interest of J. P.*, 267 Ga. 492, 493 (480 SE2d 8) (1997); *In the Interest of W. P. B.*, 269 Ga. App. 101 (1) (603 SE2d 454) (2004). The mother, therefore, was not required to file a discretionary application in this case.

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, the mother's application is hereby GRANTED. The mother shall have ten days from the date of this order to file a notice of appeal with the juvenile court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the juvenile 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 SEP 14 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

LC number(s): 1112010J081

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 01, 2010

The Court of Appeals hereby passes thefollowing order:

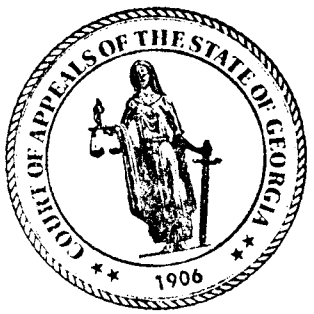
APPLICATION NO. A11D0038

DUNWOODY COUNTRY CLUB, INC., V. MARK KING ET AL

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

90004

2009CV173249



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT - 1 2010

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

Holly K. A. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0397 Atlanta, June 13, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JAMES D. CUNNINGHAM v. OAK STREET DEVELOPMENT 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0039

RECEIVED IN OFFICE
2011 AUG 11 PM 4:08
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta August 10, 2011

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.

Lui C. Ritter, 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: November 09, 2010

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 **S11C0397**.

JAMES D. CUNNINGHAM v. OAK STREET DEVELOPMENT et al.

Clerk, Supreme Court of Georgia

NOV 12 2010

Case No. A11D0039
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, OCT 20 2010

The Court of Appeals hereby passes the following order:

A11D0039. CUNNINGHAM v. OAK STREET DEVELOPMENT, INC.

Upon consideration, the applicant's motion for reconsideration is hereby ***DENIED***. His motion to strike is hereby ***DISMISSED AS MOOT.***

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, OCT 20 2010

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0039

JAMES D. CUNNINGHAM V. OAK STREET DEVELOPMENT, INC., ET AL

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

93004

08103788

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 27 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 24, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0040

SUBSEQUENT INJURY TRUST FUND, ET AL V. CITY OF ATLANTA 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.

71004

2010CV187554

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 24 2010

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

Kelly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, September 30, 2010

The Court of Appeals hereby passes the following order:

A11D0041. Cox v. The State.

Wilzorrios Cox has filed a motion to withdraw his application for discretionary appeal in this matter. Cox's motion is hereby GRANTED, and his application is deemed WITHDRAWN.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 30 2010

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

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

Kelly K. O. Spencer , *Clerk.*

LC number(s): 09SR03933

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 30, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0042

CARLIE H. HAMMOND ET AL V. R-RANCH IN THE MOUNTAINS RANCH OWNER'S ASSOCIATION, INC.

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

94004

10CV62

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 2010

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

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA September 22, 2010

The Court of Appeals hereby passes the following order:

A11D0043. KEYS v. THE STATE.

On September 8, 2010, Richard Keys filed this discretionary application seeking review of the trial court's May 25, 2010 order denying and dismissing his pro se motions. 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). Because Keys filed his application 106 days after entry of the order he seeks to appeal, his application is untimely. The application is therefore ***DISMISSED*** for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 22 2010

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

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

Kelly K. A. Spencer, *Clerk.*

LC number(s): 94B2772

Court of Appeals of the State of Georgia

ATLANTA, NOV - 9 2010

The Court of Appeals hereby passes the following order:

A11D0043. KEYS v. THE STATE.

Richard Keys filed an application for discretionary appeal that we dismissed as untimely. Keys has moved the court to re-docket his application as a direct appeal.[1] A direct appeal is initiated by filing a notice of appeal in the trial court, not the appellate court. See OCGA § 5-6-37 ("Unless otherwise provided by law, an appeal may be taken to the Supreme Court or the Court of Appeals by filing with the clerk of the court wherein the case was determined a notice of appeal."). Consequently, we lack jurisdiction to re-docket Keys's application as a direct appeal, and his motion is hereby ***DENIED.***

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV - 9 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

---

[1]Keys's request is in the form of a letter to the clerk of court, which the clerk docketed as a motion.

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 30, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0044

HERMAN DUNAGAN, JR. V. THE STATE

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

95004

00CR0342

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 2010

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

Kelly K. O. Spencer

SUPREME COURT OF GEORGIA
Case No. S10D1917

Atlanta, August 26, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HERMAN DUNAGAN, JR. v. THE STATE

From the Superior Court of Barrow County.

Applicant was convicted of child molestation and his conviction was affirmed. Dunagan v. State, 255 Ga. App. 309 (565 SE2d 526) (2002). Applicant now seeks to appeal the denial of his extraordinary motion for new trial. However, because the nature of his conviction does not fall within this Court's subject matter jurisdiction and no other basis for jurisdiction in this Court appears, see Ga. Const. of 1983, Art. VI, Sec. VI, Para. II-III, the Court hereby directs that the application be transferred to the Court of Appeals.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

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

Lynn M. Stinchcomb, Chief Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0399 Atlanta, June 13, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHAEL P. HEALEY v. CAROL HEALEY

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0045

RECEIVED IN OFFICE
2011 JUL -1 PM 3:37
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 30, 2011

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.

Sui C. Sutton , 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: November 09, 2010

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 **S11C0399**.

MICHAEL P. HEALEY v. CAROL HEALEY

Clerk, Supreme Court of Georgia

NOV 12 2010

Case No. A11D0045
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, OCTOBER 21, 2010

The Court of Appeals passed the following order

Case No. A11D0045

MICHAEL P. HEALEY V. CAROL HEALEY

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 21, 2010

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 01, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0045

MICHAEL P. HEALEY V. CAROL HEALEY

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

99004

04CV826

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 1 2010

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

Holly K. A. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 06, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0046

CHARLES JOSEPH DEAN V. THE STATE

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

98004

02CR068

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT - 6 2010

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

Kelly K. A. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 04, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0047

CAPITAL CITY INSURANCE COMPANY V. TIMOTHY BEARDEN

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

97004

07CV805

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 4 2010

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

Holly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

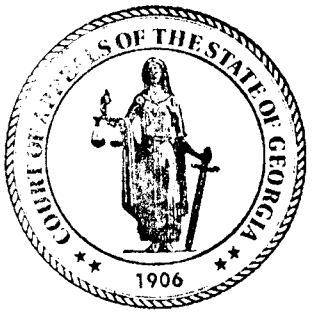
APPLICATION NO. A11D0048

RONALD GLOVER, II V. COMCAST CABLE ET AL

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

96004

2010RCCV0048



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 29 2010

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

Holly K. O. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0049

CORNELIUS H. ROGERS V. PCC AIRFOILS, INC ET AL

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

90005

2010S06657

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 13 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0050

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

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

93005

1000447

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 14 2010

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

Kelly K. A. Spencer

Court of Appeals of the State of Georgia

ATLANTA, September 23, 2010

The Court of Appeals hereby passes the following order:

A11D0051. STINSON v. THE STATE.

On September 14, 2010, Mickey Stinson filed this application for discretionary appeal to challenge the trial court's August 12, 2010, order dismissing his motion to modify sentence. To be timely, however, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Stinson filed his application 33 days after the trial court entered its order. Accordingly, we lack jurisdiction over the application, which is hereby ***DISMISSED*** as untimely.

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.

Kelly K. A. Loomer , *Clerk.*

LC number(s): SU98CR2111

Court of Appeals of the State of Georgia

ATLANTA, September 30, 2010

The Court of Appeals hereby passes the following order:

A11D0052. MARSHALL v. THE STATE.

John Terrence Marshall filed a "Demand for New Trial Under Newly Discovered Evidence." The trial court found that, in substance, Marshall's motion was a motion to withdraw his guilty plea, and the trial court denied the motion. Marshall then filed both this application for discretionary appeal and a notice of appeal.

Orders resolving out-of-time motions to withdraw guilty pleas may be appealed directly. See *Ellison v. State*, 283 Ga. 461 (660 SE2d 373) (2008); *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008). 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. Here, the application was untimely. Moreover, Marshall has filed a notice of appeal, and the appeal has been docketed in this Court as Case No. A11A0060. Thus, OCGA § 5-6-35 (j) does not apply, and the application is *DISMISSED* as superfluous.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 30 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

LC number(s): 2005CR1091

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0053

IN THE INTEREST OF: D. F. & Z. F. , CHILDREN (FATHER)

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

70005

075101134

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 13 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0054

WILLIAM MORGAN V. THE STATE

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

92005

ST08CR4146

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 14 2010

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0055

BRUCE A. ROSE ET AL V. HOUSEHOLD FINANCE CORPORATION II

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

94005

10C10475

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 13 2010

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

Kelly K. A. Loomer

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0056

JANICE BOULWARE V. SOUTHEAST GEORGIA HEALTH SYSTEM

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

91005

2009010663

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 13 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0057

BRANDI MCEWEN V. BREMEN BOWDON INVESTMENT COMPANY

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

95005

10CV01202

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 13 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 18, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0058

J & D TRUCKING ET AL V. JIMMY MARTIN

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.

98005

10V468

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 18 2010

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

Holly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0059

CHARLES A. JONES, JR., ET AL V. UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY, GEORGIA

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

97005

SU08CV0227

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 13 2010

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

Holly K. O. Lanier

Court of Appeals
of the State of Georgia

ATLANTA, OCT 18 2010

The Court of Appeals hereby passes the following order:

A11D0060. HITCHCOCK v. HITCHCOCK.

Douglas William Hitchcock filed a complaint seeking downward modification of his child support and alimony obligations as set forth in a settlement agreement incorporated into a divorce decree. Following a hearing, the trial court denied Hitchcock's petition. Hitchcock filed a motion for new trial, which the trial court also denied. Hitchcock seeks discretionary review of this ruling.

Under the Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6), the Supreme Court has general appellate jurisdiction over "[a]ll divorce and alimony cases." In Georgia, child support is a form of alimony. See, e.g., OCGA § 19-6-19 (a); *Smith v. Smith*, 254 Ga. 450, 451 (330 SE2d 706) (1985). As the underlying subject matter in this case involves alimony and 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 hereby TRANSFERRED to the Supreme Court of Georgia.

LC# 2009V1151

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 18 2010

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

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

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 26, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0061

THOMAS WILLIAM SAUERS V. THE STATE

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

90006

09V1081

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 26 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0062

IN THE INTEREST OF: D. D. C. , M. N. C. , CHILDREN (MOTHER)

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

93006

09JV0845

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0494 Atlanta, April 18, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JACOB A. BERGERON v. CEYLON N. COPES

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0063

RECEIVED IN OFFICE
2011 MAY -6 AM 11:26
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 05, 2011

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

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

Pamela M. Fishburne, 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: November 30, 2010

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 **S11C0494**.

JACOB A. BERGERON v. CEYLON N. COPES

Clerk, Supreme Court of Georgia

Case No. A11D0063
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

DEC 06 2010

Clerk, Court of Appeals of Georgia

7466

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals passed the following order

Case No. A11D0063

JACOB A. BERGERON V. CEYLON N. COPES

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, 2010

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

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

Clerk.

Kelly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 13, 2010

The Court of Appeals hereby passes thefollowing order:

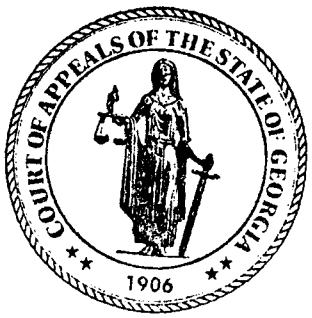
APPLICATION NO. A11D0063

JACOB A. BERGERON V. CEYLON N. COPES

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

71006

10CV00359



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 13 2010

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

Kelly K. O. Spencer

SUPREME COURT OF GEORGIA
Case No. S10D1981
A11D0063

Atlanta September 10, 2010

FILED IN OFFICE
SEP 27 2010
CLERK, COURT OF
APPEALS OF GEORGIA

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

JACOB A. BERGERON v. CEYLON N. COPES.

From the Superior Court of Douglas County.

Following the entry of a final judgment in which the superior court dismissed applicant's petition for mandamus, respondent filed a motion for expenses of litigation pursuant to OCGA § 9-15-14. The superior court granted the motion and awarded the fees sought, and applicant filed this application for discretionary review in this Court.

It appearing, however, that the only issue to be decided on appeal is whether the superior court erred in granting the motion for expenses of litigation; and it further appearing that no substantive issue of mandamus is presented for decision in this application and that, therefore, the application does not involve any issue within this Court's jurisdiction, it is hereby ordered that this application for discretionary appeal be transferred to the Court of Appeals. See Bowles v. Lovett, 258 Ga. 636 (374 SE2d 202) (1988); Cohran v. Haldi, 189 Ga. App. 529, 530 (1) (376 SE2d 416) (1988).

All the Justices concur except Carley, P. J., Melton and Nahmias, JJ., who dissent.

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, OCTOBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0064

SHAW INDUSTRIES INC., C/O GALLAGHER BASSETT SERVICES

V. VALENCIA MICHELLE SCOTT

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.

70006

102179

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 22 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCT 14 2010

The Court of Appeals hereby passes the following order:

A11D0065. Ramsey v. Middleton.

Emmett Reid Ramsey filed a timely application for discretionary appeal seeking to challenge the 12-month stalking protective order entered against him in this case. It does not appear, however, that a discretionary application was necessary. Nothing in the application demonstrates that the protective order arose out of a domestic relations matter that would be subject to the discretionary appeal procedures in OCGA § 5-6-35 (a) (2). See, e.g., OCGA § 19-1-1 (a) (defining the term "domestic relations action"). Moreover, we have consistently treated temporary stalking protective orders as directly appealable. See *Thornton v. Hemphill*, 300 Ga. App. 647 (686 SE2d 263) (2009); *Rawcliffe v. Rawcliffe*, 283 Ga. App. 264 (641 SE2d 255) (2007); *McKlin v. Ivory*, 266 Ga. App. 298 (596 SE2d 673) (2004); *Johnson v. Smith*, 260 Ga. App. 722 (580 SE2d 674) (2003).

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Ramsey's application is hereby GRANTED. Ramsey shall have ten days from the

date of this order to file a notice of appeal with the trial court.[1] See OCGA § 5-6-35 (g). The clerk of the trial 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 OCT 14 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence, *Clerk.*

[1] If Ramsey has already filed a notice of appeal from the order, he need not file a second notice.

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 20, 2010

The Court of Appeals hereby passes thefollowing order:

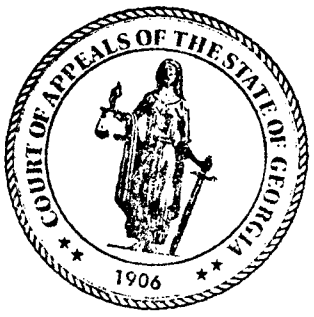
APPLICATION NO. A11D0066

SHAWN DANES ET AL V. REEVES CONSTRUCTION COMPANY ET AL

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

94006

2010RCCV0052



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 20 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0067

IN THE INTEREST OF: L. M. N., A. R. N., H. L. N., AND G. M. N., CHILDREN (MOTHER)

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

91006

14710J0576

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

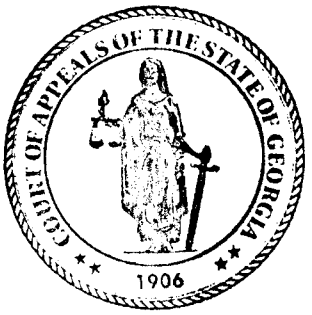
APPLICATION NO. A11D0068

WESLEY SCOTT WILLIAMS V. CLAYTON COUNTY JAIL, ET AL

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

95006

2010CV34628



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

Kelly K. A. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 28, 2010

The Court of Appeals passed the following order

Case No. A11D0069

KYLE RICHARD BISHOP 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 28, 2010

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

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

Clerk.

Holly K. A. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, OCT - 7 2010

The Court of Appeals hereby passes the following order:

A11D0069. BISHOP v. THE STATE.

On September 29, 2010, Kyle Richard Bishop filed an application for discretionary review, seeking to challenge the trial court's August 20, 2010 order denying his extraordinary motion for new trial. To be timely, however, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Bishop filed his application 40 days after the trial court entered its order. Accordingly, we lack jurisdiction over the application, which is hereby DISMISSED as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT - 7 2010

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, OCT 19 2010

The Court of Appeals hereby passes the following order:

A11D0070. Lisa B. Smith v. Arborgate Condominium Association, Inc.

Lisa B. Smith seeks discretionary review of the trial court's order granting summary judgment to Arborgate Condominium Association, Inc. on Smith's counterclaim. An order granting summary judgment is subject to direct appeal. OCGA § 9-11-56 (h); see *Culwell v. Lomas & Nettleton Company*, 242 Ga. 242, 243 (248 SE2d 641) (1978). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. As it does not appear that Smith has filed a notice of appeal, this application is hereby GRANTED. Smith shall have ten days from the date of this order to file a notice of appeal with the state court. The state court is instructed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 19 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

LC# 08VS135863

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 18, 2010

The Court of Appeals passed the following order

Case No. A11D0072

DEANDRE M. WILLIAMS 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 18, 2010

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCT 21 2010

The Court of Appeals hereby passes the following order:

A11D0072. WILLIAMS v. THE STATE.

Deandre Williams filed a motion in the trial court to vacate or set aside an allegedly void conviction.[1] The order that Williams seeks to appeal was entered on August 27, 2010, but he did not file his application for discretionary appeal until October 4, 2010.[2] An application for discretionary appeal must be filed within 30 days of the order to be appealed. OCGA § 5-6-35 (d). Because Williams filed his application 38 days after entry of the order he seeks to appeal, it is untimely. Moreover, "[a] motion to vacate a conviction . . . is not one of the established procedures for challenging the validity of a judgment in a criminal case. Because [Williams] was not authorized to seek relief from his criminal convictions pursuant to a motion to vacate or correct a void conviction, there is nothing for this Court to review and his [application for discretionary] appeal is subject to dismissal." (Citations omitted.) *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). For these reasons, this Court lacks jurisdiction to consider this application, which is hereby DISMISSED.

LC# 2000RCCR0035

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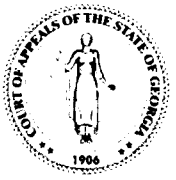
[1] In violation of Court of Appeals Rule 31 (b), Williams did not include a copy of the motion he filed that led to the order he seeks to appeal. Based upon the arguments Williams raises in his application and the trial court's order, it appears he sought to challenge the validity of his guilty plea.

[2] Williams attempted to file his application earlier, but it was returned to him because it did not contain a copy of the order he sought to appeal or either a filing fee or a pauper's affidavit. See Court of Appeals Rule 31 (d) & (e).



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 21 2010

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

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

Kelly K. A. Loarca , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, OCT 18 2010

The Court of Appeals hereby passes the following order:

A11D0073. Grier v. The State.

Carlos Grier has filed an application for discretionary review in this Court, seeking to appeal the denial of his Motion for Relief from Judgment, which challenges his felony murder conviction and resulting life sentence.[1] In *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984), the Supreme Court directed that all appeals in cases "in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder" shall be decided by that Court. Accordingly, this appeal is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 18 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

LC# 99CR50306

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[1] The Supreme Court affirmed Grier's conviction in 2001. See *Grier v. State*, 273 Ga. 363 (541 SE2d 369) (2001).

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0074

TIFFANY DAVIS V. THE STATE

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

93007

08CR0143

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

Kelly K. A. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0075

JAMES ANTHONY JOHNSON 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.

71007

03CR720

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

Kelly K. A. Spanow

Court of Appeals of the State of Georgia

ATLANTA, OCT 27 2010

The Court of Appeals hereby passes the following order:

A11D0076. HICKEY v. THE STATE.

On September 30, 2010, Lorenzo Keith Hickey filed an application for discretionary review, seeking to challenge the trial court's July 2, 2010 order denying his motion to reduce his sentence. To be timely, however, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Hickey filed his application 90 days after the trial court entered its order.[1] Accordingly, we lack jurisdiction over the application, which is hereby DISMISSED as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 27 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , Clerk.

LC # 2008C39622

---

[1] Hickey initially filed his application with the Georgia Supreme Court, which transferred it here. Because the application did not contain a certificate of service, a filing fee, or a pauper's affidavit, we were unable to accept it for filing. See Court of Appeals Rules 6 & 31 (d). The application was thus returned to Hickey, who resubmitted the application on September 30, 2010.

SUPREME COURT OF GEORGIA
Case No. S10D1797

Atlanta August 16, 2010

RECEIVED IN OFFICE
2010 SEP -1 PM 3:25
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LORENZO KEITH HICKEY v. THE STATE

From the Superior Court of Houston County.

Applicant filed this application for discretionary appeal seeking review of the trial court's July 2, 2010 order denying his Motion for Reduction or Modification of Sentence which he filed in the court of conviction. Applicant, whose convictions apparently were for the sale of cocaine sets forth no basis for subject matter jurisdiction, however, and none appears from the record. Accordingly, this 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.

Lynn M. Stinchcomb, Chief Deputy Cle

Court of Appeals
of the State of Georgia

ATLANTA, NOV 19 2010

The Court of Appeals hereby passes the following order:

A11D0077. Thomas v. The State.

Leon Thomas has filed a "Motion for Federal Rule Civil Procedure 60 (b)" in connection with his application for discretionary appeal. In essence, his motion urges us to grant the relief requested in his discretionary application. On October 26, 2010, however, we denied his application for discretionary review. Accordingly, Thomas's "Motion for Federal Rule Civil Procedure 60 (b)" is hereby DISMISSED as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV 19 2010

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 26, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0077

LEON R. THOMAS V. THE STATE

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

92007

101026041

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 26 2010

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

Kelly K. O. Spencer

SUPREME COURT OF GEORGIA
Case No. S11D0052
A11D0077

Atlanta September 17, 2010

RECEIVED IN OFFICE
2010 OCT -5 PM 3:0
CLERK'S OFFICE SUPREME COURT OF GEORGIA

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

LEON R. THOMAS v. THE STATE

Applicant, a federal inmate, filed a Request to Proceed in Forma Pauperis in connection with his underlying "Petition for Writ of Audita Querela" through which he sought to clarify that certain guilty plea convictions in DeKalb County should be "consolidated" for federal purposes. The trial court denied the request finding that his pleading showed on its face such a complete absence of any justiciable issue of law or fact that it could not be reasonably believed that any relief could be granted against any party named in the proceeding. Applicant filed an application for discretionary appeal in this Court stating no basis for subject matter jurisdiction.

As noted by the trial court, the writ of audita querela was an common law writ used to attack civil judgments but it has essentially been superceded by motions practice. Such a writ is not an "extraordinary remedy" within this Court's subject matter jurisdiction, see Spence v. Miller, 176 Ga. 96 (167 SE 188) (1933) (jurisdiction over extraordinary remedies applies "only to such extraordinary legal remedies as mandamus, prohibition, quo warranto, and the like"). Moreover, even if it were, it is not a proper remedy in a criminal case and thus the mere request for such a remedy would not give this Court subject matter jurisdiction. See Richardson v. Phillips, 285 Ga. 385 (677 SE2d 117) (2009). Finally, although applicant may have been able to bring this claim through habeas corpus proceedings and appeals arising out of such proceedings would be within this Court's jurisdiction, see Ga. Const. of 1983, Art. VI, Sec. VI, Para. III (4), applicant's pleading was not treated as a habeas corpus petition below. Since no other basis for this Court's jurisdiction appears from the record, this 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.

Lynne M. Hinchcomb, Chief Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0472 Atlanta, June 27, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

THOMAS COTTON v. AIKEN/PIKE HOLDINGS, 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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A11D0078

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta August 10, 2011

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.

RECEIVED IN OFFICE
2011 AUG 11 PM 4:08
SUPREME COURT
COURT OF APPEALS
ADMINISTRATOR
GA

Sui C. Milton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S11C0472

Atlanta, June 27, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

THOMAS COTTON v. AIKEN/PIKE HOLDINGS, INC., et al.

The petition for certiorari having been filed late, it is hereby dismissed as untimely. Supreme Court Rule 38. All the Justices concur.

Court of Appeals Case No. A11D0078

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

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

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

, 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: November 29, 2010

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 **S11C0472**.

THOMAS COTTON v. AIKEN/PIKE HOLDINGS, INC., et al.

Clerk, Supreme Court of Georgia

DEC - 3 2010

Case No. A11D0078
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, OCT 28 2010

The Court of Appeals hereby passes the following order:

A11D0078. Thomas E. Cotton v. Aiken/Pike Holdings, Inc. et al.

Thomas E. Cotton brought an action against Aiken/Pike Holdings, Inc. and other defendants seeking, among other things, to set aside a 2006 foreclosure. In January 2010, the trial court dismissed Cotton's claims. He filed a notice of appeal. In April 2010, the court dismissed the notice of appeal on the ground that its January 2010 order was interlocutory because counterclaims remained pending in the case. Cotton filed a notice of appeal of the April order, as well as two motions for reconsideration and a motion to recuse the trial judge. In a series of orders entered on July 12, 2010, the trial court dismissed Cotton's second notice of appeal, denied his motions for reconsideration and to recuse, and awarded attorney fees to defendants. Cotton requested certificates of immediate review as to these orders, but in multiple orders entered on August 2, 2010, the trial denied those requests. On August 23, 2010, Cotton filed an "Application for Appellate Review" in the Supreme Court, which transferred the matter here.[1] We lack jurisdiction.

As an initial matter, it is not clear from his application which of the trial court's orders Cotton is seeking to challenge. To the extent that he seeks to appeal the denial of his requests for certificates of immediate review, the orders denying such requests are not appealable judgments. See *Smith & Wesson Corp. v. City of Atlanta*, 273 Ga.

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[1] Although the Supreme Court docketed Cotton's application as one for interlocutory review, this Court docketed it as an application for discretionary review because it was not captioned as an interlocutory application and did not include a certificate of immediate review. See OCGA § 5-6-34 (b); Court of Appeals Rule 30 (b).

431, 435 (3) (2001); *Price v. State*, 237 Ga. 352 (227 SE2d 368) (1976). To the extent that Cotton seeks to appeal any other orders entered in the case, those orders are interlocutory because counterclaims remain pending below. See *Yates v. CACV of Colorado, LLC*, 295 Ga. App. 69 (670 SE2d 884) (2008). To appeal, therefore, Cotton was required to follow the interlocutory appeal procedures in OCGA § 5-6-34 (b), including obtaining a certificate of immediate review from the trial court. See *Miller v. Miller*, 282 Ga. 164 (646 SE2d 469) (2007). His failure to do so deprives us of jurisdiction over this application, which is hereby DISMISSED.

LC# 09CV069

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 28 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. D. Loomis , *Clerk.*

SUPREME COURT OF GEORGIA
Case No. S10I2077
A11D0078

Atlanta September 17, 2010

RECEIVED IN OFFICE
2010 OCT -5 PM 2:55
CLERK'S OFFICE
SUPREME COURT
STATE OF GEORGIA

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

THOMAS E. COTTON v. AIKEN/PIKE HOLDINGS, INC., et al.

This case arises out of a lawsuit filed in Taliaferro County in which applicant seeks the identical relief he sought in a prior lawsuit filed in Fulton County (subsequently transferred to Morgan County) in regard to property located in Taliaferro County - that the 2006 foreclosure sale should be set aside, that the deed should be cancelled and that defendants should pay damages for wrongful foreclosure. The trial court dismissed the complaint for a number of reasons in January 2010, and in April 2010 the court dismissed applicant's notice of appeal. Because the Court of Appeals has jurisdiction over cases involving wrongful foreclosure, cancellation of deeds and money damages, see Andrews v. Holloway, 140 Ga. App. 622 (231 SE2d 548) (1976), 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.

Lynne M. Stinchcomb, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, OCT 21 2010

The Court of Appeals hereby passes the following order:

A11D0079. MERILIEN v. MURRAY.

Jean J. Merilien, a prisoner proceeding pro se, filed this discretionary application from an order denying his motion to compel discovery. We lack jurisdiction.

Appeals in civil actions filed by prisoners must be taken by application for discretionary appeal. OCGA § 42-12-8; *Griffin v. Keller*, 278 Ga. 878, 879 (608 SE2d 221) (2005); *Jones v. Townsend*, 267 Ga. 489, 490 (480 SE2d 24) (1997). But the order Merilien seeks to appeal is not final; his case remains pending below. Therefore, Merilien was required to follow the interlocutory appeal procedure of OCGA § 5-6-34 (b). *Golden v. Gray*, 156 Ga. App. 596 (275 SE2d 162) (1980). Where both discretionary and interlocutory application procedures apply, the applicant must follow the interlocutory appeal procedure and obtain a timely certificate of immediate review before filing an application. See *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588 (1) (408 SE2d 103) (1991).

Merilien's failure to follow the proper appellate procedure deprives this Court of jurisdiction over his application, which is therefore ***DISMISSED.***

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 21 2010

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

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

Kelly K. A. Loomis, *Clerk.*

LC# 10A03840

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0080
CHRISTOPHER J. ARTZ 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.

95007
2009RCCV1243

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 27 2010

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

Holly K. O. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0081

ALVIN L. MASTERS V. ASSET ACCEPTANCE LLC

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

99007

2010CV181658

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 22 2010

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

Holly K. D. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0082

MAUREEN M. MCLEOD V. VANEEZA ENTERPRISES, 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.

92008

08A92534

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 27 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, OCT 21 2010

The Court of Appeals hereby passes the following order:

A11D0083. BARRY v. THE STATE.

Joseph Barry entered guilty pleas to possession of marijuana, felony obstruction, possession of drug-related objects, and possession of cocaine. Barry moved to withdraw his guilty pleas, but the superior court denied his motion. Barry next challenged the convictions entered on his pleas by filing a "motion to correct void sentence," in which he contended that the possession of cocaine charge should have been merged. The superior court denied Barry's motion. Barry filed this application for discretionary appeal of the superior court's order.

We lack jurisdiction. A criminal defendant may appeal an order denying or dismissing a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216 n. 1 (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). As found by our Supreme Court, however, a claim that two convictions should have been merged constitutes an attack on the convictions, not the sentence, and an order denying or dismissing such an attack is not subject to appeal. See *Williams v. State*, 287 Ga. 192, 193-194 (695 SE2d 244) (2010); *Harper*, supra. Accordingly, we cannot consider Barry's "void sentence" allegations, and his application for discretionary appeal is hereby ***DISMISSED***. Barry's motion for appointment of counsel is ***DISMISSED AS MOOT.***

LC# CR082646

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, OCT 21 2010

The Court of Appeals hereby passes the following order:

A11D0084. IN THE INTEREST OF: Z. L. B. AND S. K. B., CHILDREN (GRANDPARENTS).

The paternal grandparents of Z. L. B. and S. K. B. sought to intervene in a termination petition and to obtain permanent custody of their grandchildren. By order entered August 31, 2010, the juvenile court terminated the parents' rights and denied the grandparents' request, finding that placement of the children with the grandparents was not in the children's best interest. On October 7, 2010, the grandparents filed an application for discretionary appeal from this ruling.[1]

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because the grandparents' application was filed 37 days after the order they seek to appeal, it was untimely. And we lack jurisdiction to consider an untimely application. See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998). Accordingly, this application is hereby DISMISSED for lack of jurisdiction.

LC# 1000380

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[1] The grandparents attempted to file the application for discretionary appeal earlier, but failed to include either filing fees or a pauper's affidavit as required by Court of Appeals Rule 31 (d). Thus, this Court was unable to accept the application.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 2010

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0085

IN THE INTEREST OF: R. R. S. AND A. E. W. H., CHILDREN (MOTHER)

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

96007

1000150

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 27 2010

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

Holly K. A. Spears

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0086

SUSAN E. DEAN ET AL V. BRENDA RIVERA

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

90008

08A07173

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 27 2010

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

Holly K. O. Loarca

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 18, 2010

The Court of Appeals passed the following order

Case No. A11D0087

CORAL CREW-NOBLE V. TUSCANY CONDOMINIUM ASSOCIATION, INC.

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, 2010

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCT 25 2010

The Court of Appeals hereby passes the following order:

A11D0087. CREW-NOBLE v. TUSCANY CONDOMINIUM ASSOCIATION, INC.

Tuscany Condominium Association, Inc. filed this action against Coral Crew-Noble to foreclose a lien and for damages. Crew-Noble did not file a timely answer and the superior court entered judgment in Tuscany's favor. Crew-Noble moved to open default and to set aside the default judgment. In an order entered on June 29, 2010, the trial court denied the motion. On July 19, 2010, Crew-Noble filed a motion for reconsideration, which the trial court denied in an order entered on September 9, 2010. On October 8, 2010, Crew-Noble filed this application for discretionary appeal of the denial of her motion to set aside. We lack jurisdiction.

Although an applicant may file a discretionary application to challenge the denial of a motion to set aside a default judgment, the application must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). The trial court denied Crew-Noble's motion to set side on June 29, 2010. Therefore, Crew-Noble's October 8, 2010 application is untimely as to this order. The denial of Crew-Noble's motion for reconsideration is not itself appealable. See *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Nor did the motion for reconsideration extend the time for filing a discretionary application from the order denying the motion to set aside default. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). For these reasons, we lack jurisdiction over this discretionary application, which is hereby ***DISMISSED***.

LC# 2007CV142559

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, OCT 25 2010

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOV - 8 2010

The Court of Appeals hereby passes the following order:

A11D0088. TAYLOR-BANKSTON v. THE PANTRY, INC., et al.

Edith Taylor-Bankston filed this application for discretionary appeal seeking review of the superior court's order affirming the award of the State Board of Workers' Compensation. The superior court held a hearing on August 18, 2010, but it did not issue its order until twenty-one days later on September 8, 2010. Pursuant to OCGA § 34-9-105 (b), however, the superior court's order must be entered within 20 days, or the award of the State Board of Workers' Compensation is affirmed by operation of law. Thus, the award became final by operation of law on September 7, and it is this date that controls for purposes of filing a timely application for appeal. See OCGA § 34-9-105 (d); *MacKenzie v. Sav-A-Lot Food Store*, 226 Ga. App. 32, 33 (485 SE2d 559) (1997). The superior court's subsequent award was a mere nullity. See id.; *Synthetic Industries v. Camp*, 196 Ga. App. 637 (396 SE2d 518) (1990).

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Taylor-Bankston filed her application on October 8, 2010, thirty-one days after the State Board's award was affirmed by operation of law. The application is untimely and is therefore DISMISSED for lack of jurisdiction. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC# 2010SUCV2139

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV - 8 2010

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, OCT 22 2010

The Court of Appeals hereby passes the following order:

A11D0089. Fox v. Centennial Park Townhomes Association, Inc.

On October 13, 2010, Ronald F. Fox filed an application for discretionary review, seeking to challenge the trial court's August 9, 2010 order granting summary judgment to Centennial Park Townhomes Association. Orders granting summary judgment are subject to direct appeal. See OCGA § 9-11-56 (h). Ordinarily, if a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order to be appealed. See OCGA § 5-6-35 (d) & (j); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Fox filed his application 65 days after entry of the order at issue here. Accordingly, his untimely application is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 22 2010

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

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

Kelly K. A. Spencer , *Clerk.*

LC# 08VS158200

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 08, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0090

BALL FAMILY LAW V. TRAVIS FOWLER

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

94008

2010CV287

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 8 2010

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

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA, OCT 21 2010

The Court of Appeals hereby passes the following order:

A11D0091. TOENNIGES v. STATE FARM ET AL.

Donald Wayne Toenniges brought this action against multiple defendants. After the trial court awarded summary judgment to one defendant, Toenniges filed this application for discretionary appeal. The grant of summary judgment on any issue or to any party is directly appealable. OCGA § 9-11-56 (h); see also *Whiddon v. Stargell*, 192 Ga. App. 826, 828 (386 SE2d 884) (1989). Under OCGA § 5-6-35 (j), this court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. Accordingly, Toennige's application is hereby ***GRANTED***.[1] Toennige shall have 10 days from the date of this order to file a notice of appeal with the superior court.[2] The superior court is instructed to include a copy of this order in the appellate record.

LC# 10V1399

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[1]Toenniges has included with his application only the superior court's order. But see OCGA § 5-6-35 (c); Court of Appeals Rule 31 (b), (c). Therefore, it is impossible for us to fulfill our duty to examine the record to ensure that we have jurisdiction. See *Mitchell v. State*, 157 Ga. App. 181, 182 (1) (276 SE2d 864) (1981). Should we determine that we lack jurisdiction once the record comes before us, we will dismiss Toenniges's appeal.

[2]If Toenniges has already filed a notice of appeal from this order, he need not file a second notice.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 21 2010

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 03, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0092

NAYLOR, INC ET AL V. CURTIS MEEKS

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

95008

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV - 3 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0093

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

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

99008

09DP881

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 10 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0094

HONDA PRECISION PARTS OF GEORGIA ET AL V. JANET BROWN

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

98008

10CV561

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 29 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, OCT 20 2010

The Court of Appeals hereby passes the following order:

A11D0095. THOMAS ET AL. v. JORDAN ET AL.

Edward Thomas and other members of Mt. Moriah Baptist Church filed this action against Earl Jordan and other church deacons. After the trial court denied the plaintiffs' motion for an interlocutory injunction, they filed this application for discretionary appeal.[1] The denial of a motion for interlocutory injunction is directly appealable. OCGA § 5-6-34 (a) (4); *Haygood v. Tilley*, 295 Ga. App. 90 n. 1 (670 SE2d 800) (2008). Under OCGA § 5-6-35 (j), this court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. Accordingly, this application is hereby ***GRANTED***. The plaintiffs shall have 10 days from the date of this order to file a notice of appeal with the trial court.[2] The trial court is instructed to include a copy of this order in the appellate record.

LC# 10DV0228

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[1]The plaintiffs filed their application in the Supreme Court, which found that the application did not invoke its equity jurisdiction because "the trial court's denial of injunctive relief was based primarily on, and was ancillary to, its determination that [the plaintiffs] failed to establish that they represented a majority of the church's congregation, and because the propriety of that determination is the issue raised on appeal. . . ." The Supreme Court thus transferred the application to this court.

[2]If the plaintiffs have already filed a notice of appeal from this order, they need not file a second notice.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 20 2010

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

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

Kelly K. A. Loomer , *Clerk.*

97-004

SUPREME COURT OF GEORGIA
Case No. S11D0110

A11D0095

FILED IN OFFICE
OCT 18 2011
CLERK, COURT OF APPEALS OF GEORGIA

Atlanta September 30, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

EDWARD THOMAS et al. v. EARL JORDAN et al.

From the Superior Court of Dooley County.

Because the trial court's denial of injunctive relief was based primarily on, and was ancillary to, its determination that applicants failed to establish that they represented a majority of the church's congregation, and because the propriety of that determination is the issue raised on appeal, the application fails to invoke this Court's jurisdiction over equity cases. See Redfearn v. Huntcliff Homes Assn., 271 Ga. 745 (574 SE2d 464) (1999). Accordingly, 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.

Lyra M. Stinchcomb, Chief Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0655 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ARLANDA ARNAY SMITH v. MARNE LYNNE MERCER

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0096

RECEIVED IN OFFICE
2011 SEP 22 PM 12:41
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 21, 2011

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.

Lui C. Ritter, 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: January 04, 2011

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 **S11C0655**.

ARLANDA ARNAY SMITH v. MARNE LYNNE MERCER

Clerk, Supreme Court of Georgia

Case No. A11D0096
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

JAN 04 2011 Clerk, Court of Appeals of Georgia

7843

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 13, 2010

The Court of Appeals passed the following order

Case No. A11D0096

ARLANDA SMITH V. MARNE L. MERCER

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 13, 2010

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 04, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0096

ARLANDA SMITH V. MARNE L. MERCER

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

96008

10CV10015

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 4 2010

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

Kelly K. A. Spencer

Court of Appeals of the State of Georgia

ATLANTA, OCT 27 2010

The Court of Appeals hereby passes the following order:

A11D0097. Greenwood v. Greenwood.

Joan M. Greenwood seeks discretionary review of the trial court's order finding her ex-husband in contempt of certain property distribution provisions of their divorce decree. Although the trial court ruled in her favor on several issues, Mrs. Greenwood disagrees with the remedy imposed by the trial court following the contempt finding. She thus requests permission to appeal.

The Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008) (appeal from judgment in contempt action seeking to enforce any divorce decree provision not involving child custody falls within the Supreme Court's jurisdiction). Because the underlying subject matter of this application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, OCT 27 2010

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

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

Kelly K. A. Loomis , *Clerk.*

LC # 10A05707

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 29, 2010

A11I0081. WILLIAM MOORE v. MICHAEL D. BELOTE

The Honorable Court of Appeals hereby passes the following order:

It appearing the DISCRETIONARY application A11D0098 was incorrectly filed due to clerical error, it is hereby ordered that said application is hereby changed to an INTERLOCUTORY application with the case number A11I0081 as stated above.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 29 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

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

Clerk.

Kelly K. A. Lawson

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 18, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0099

AMANDA TRUESDALE V. DEKALB COUNTY BOARD OF EDUCATION

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

71009

10CV8980

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 18 2010

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, NOV - 5 2010

The Court of Appeals hereby passes the following order:

A11D0100. REED et al v. REED et al.

In this garnishment action, Holly Reed and Calvin Ashworth obtained a default judgment against garnishee Tires Plus, which employed judgment debtor William David Reed. By order entered September 21, 2010, the trial court set aside the default judgment. Reed and Ashworth filed an application for discretionary appeal from this ruling.

Although Reed and Ashworth characterize the trial court's order as final, it is not final as an order setting aside a default judgment leaves the case pending in the trial court. See *Vangoosen v. Bohannon*, 236 Ga. App. 361, 363 (2) (511 SE2d 925) (1999); *Guy v. Roberson*, 214 Ga. App. 391, 392 (1) (448 SE2d 60) (1994); *English v. Tucker Federal Savings & Loan Assn.*, 175 Ga. App. 69 (332 SE2d 365) (1985). Such non-final orders must be appealed through the interlocutory appeal procedure set forth in OCGA § 5-6-34 (b). *Guy*, supra. Although appeals in garnishment cases are typically by discretionary application, see OCGA § 5-6-35 (a) (4), where both discretionary and interlocutory application procedures apply, the applicant must follow the interlocutory appeal procedure and obtain a timely certificate of immediate review before filing an application. See *English*, supra; *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588 (1) (408 SE2d 103) (1991). Because Reed and Ashworth failed to follow the interlocutory appeal procedure, this application is DISMISSED for lack of jurisdiction.

LC# SU09CV2583

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, NOV - 5 2010

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

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

Holly K. D. Lanoa , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOV - 3 2010

The Court of Appeals hereby passes the following order:

A11D0101. Reed v. The State.

James Reed has filed an application for discretionary review, seeking to appeal the trial court's order denying his motion to correct his sentence. The application materials show, however, that a discretionary application was not necessary here.

A direct appeal lies from the denial of a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216, 217 n. 1 (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). Reed contends that his punishment was illegally increased after he began serving his original sentence. This claim raises a colorable void sentence challenge, the denial of which is subject to direct appeal. See *Brown v. Moody*, 243 Ga. 473, 474 (1) (254 SE2d 843) (1979) ("Once a person has entered upon the execution of his sentence, the court is without power to change it by increasing the punishment," and any increase is void).

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Reed shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal from the order at issue, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

LC# CR971558

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, NOV - 3 2010

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

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

Kelly K. O. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 16, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0102

MICHAEL B. KING V. CITIBANK (SOUTH DAKOTA) N.A.

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.

94009

2010CV00976

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 16 2010

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

Kelly K. A. Spence

Court of Appeals
of the State of Georgia

ATLANTA, NOV - 3 2010

The Court of Appeals hereby passes the following order:

A11D0103. FLEMMING v. THE STATE.

Steven Victor Flemming entered guilty pleas to multiple felonies and misdemeanors in 1997. In September 2010, Flemming filed what he called an "extraordinary motion to vacate sentence and for new trial." Among other grounds, Flemming contended that he received ineffective assistance of counsel because his attorney did not advise him that his plea could result in his deportation. The trial court denied the motion, and Flemming filed an application for discretionary review.

Through his motion, Flemming essentially sought to withdraw his guilty pleas. Although the motion was filed outside the term of court in which Flemming was sentenced, our Supreme Court has treated the denial of such a motion as a directly appealable order. See *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008). Under OCGA § 5-6-35 (j), this court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. Accordingly, Flemming's application is hereby ***GRANTED***. Flemming shall have 10 days from the date of this order to file a notice of appeal with the trial court.[1] The trial court is instructed to include a copy of this order in the appellate record.

LC# 97CR862

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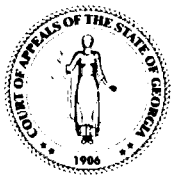
[1]If Flemming has already filed a notice of appeal from the trial court's order, he need not file a second notice.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, NOV -3 2010

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

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

Holly K. A. Lanoa , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0104

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

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

95009

09J03564

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 10 2010

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

Holly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0105
LEXIE AND JANE STORES, LLC., V. ST. LUCIE EAST HOLDINGS, 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.

99009
10EV010354

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 10 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 12, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0106
SONJA E. TEAL V. MICHAEL THURMOND, COMMISSIONER, GEORGIA DEPARTMENT OF LABOR 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.

98009
2010CV186502

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
NOV 12 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0107

WILLIAM ANTHONY THOMAS V. THE STATE

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

97009

2002CR125

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 10 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 10, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0108

PRATTIGAN TECHNOLOGY GROUP, INC., V. SHARP ELECTRONICS CORPORATION

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

96009

09CV03479

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 10 2010

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

Holly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 04, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0109

IN THE INTEREST OF: R. R. S., A CHILD (FATHER)

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

96010

1000150

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 4 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 08, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0110

LARRY JOE DURDEN V. THE STATE

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

90010

06CR0503

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 8 2010

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 18, 2010

The Court of Appeals hereby passes thefollowing order:

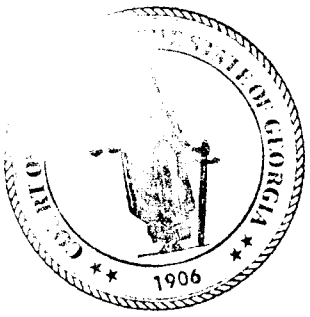
APPLICATION NO. A11D0111

MICHAEL L. LARKIN V. AL ST. LAWRENCE ET AL

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

93010

CV083066



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 18 2010

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

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0489 Atlanta, April 18, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

GLADYS E. MAPP et al. v. WE CARE TRANSPORTATION SERVICES, 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0112

RECEIVED IN OFFICE
2011 MAY -6 AM 11:27
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 05, 2011

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

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

Pamela M. Fishburne, 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: December 02, 2010

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 **S11C0489**.

GLADYS E. MAPP et al. v. WE CARE TRANSPORTATION SERVICES, INC., et al.

Clerk, Supreme Court of Georgia

DEC - 3 2010

Case No. A11D0112
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, NOVEMBER 18, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0112

GLADYS E. MAPP ET AL V. WE CARE TRANSPORTATION SERVICES, INC., ET AL

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

71010

09SV1280

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 18 2010

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

NOV 16 2010

ATLANTA,

The Court of Appeals hereby passes the following order:

A11D0113. LONG v. LONG et al.

Harry L. Long, who is proceeding pro se, filed this application for discretionary appeal seeking review of the superior court's order dismissing his complaint. Because the trial court's order constituted a final judgment for the defendants, however, it may be appealed directly; no application is required. See OCGA § 5-6-35 (a) (listing cases requiring application for discretionary appeal). 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 Long has not already filed a notice of appeal, his application for discretionary appeal is hereby GRANTED. Long shall have 10 days from the date of this order to file a notice of appeal with the superior court. 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, NOV 16 2010

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

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

Kelly K. A. Spence, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, NOV 24 2010

The Court of Appeals hereby passes the following order:

A11D0114. Robin Jean Wellman-Fisher v. Andrew Somes Fisher et al.

Robin Jean Wellman-Fisher filed a garnishment action seeking to recover money that her ex-husband, Andrew Somes Fisher, allegedly owed her. In response to the summons of garnishment, Fisher's bank apparently paid a sum into the registry of the state court. The court dismissed that garnishment action, but Wellman-Fisher soon filed a second one. Fisher traversed the garnishment, and the court entered an order granting his traverse. Wellman-Fisher then filed this application for discretionary review. Because the order that Wellman-Fisher seeks to appeal did not direct the disbursement of the funds still held by the court, it is not final. See *Turner v. Wood*, 159 Ga. App. 850 (285 SE2d 589) (1981). Although appeals in garnishment cases are typically by discretionary application, see OCGA § 5-6-35 (a) (4), where both discretionary and interlocutory application procedures apply, the applicant must follow the interlocutory appeal procedure and obtain a timely certificate of immediate review before filing an application. See *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588 (1) (408 SE2d 103) (1991). Because Wellman-Fisher failed to follow the interlocutory appeal procedure, this application is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 24 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

LC# 10GR054895

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 16, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0115
OUTDOOR COMMUNICATION STRUCTURES, INC., ET AL
V. CITY OF ATLANTA 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.

94010
2008CV157207

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 16 2010

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 16, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0116

OUTDOOR COMMUNICATIONS STRUCTURES, INC., ET AL

V. CITY OF ATLANTA

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.

94011

2007CV143364

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 16 2010

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

Kelly K. O. Lamar

SUPREME COURT OF GEORGIA
Case No. S11D0149, S11D0165.

Atlanta October 14, 2010

RECEIVED IN OFFICE
2010 OCT 29 AM 11:13

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

OUTDOOR COMMUNICATION STRUCTURES, INC., et al. v. CITY OF ATLANTA et al.

In the above-styled applications for discretionary appeal, Applicants seek to appeal from two final orders affirming the decision of the Board of Zoning Adjustment and holding that the request for writ of mandamus and the constitutional challenges raised are moot. However, no mandamus claim remains because, as Applicants concede, "the City's eventual denial of the permit mooted the request for mandamus relief . . . ." See Employees' Retirement System of Ga. v. Harris, 303 Ga. App. 191, 195 (2) (2010). Furthermore, because the trial court did not issue a distinct ruling on the constitutional challenges raised, this Court's subject matter jurisdiction over constitutional questions is not invoked. See Jenkins v. State, 284 Ga. 643 (1) (670 SE2d 425) (2008). Additionally, although Applicants sought equitable relief, the propriety of equitable relief is not a substantive issue on appeal because the trial court did not grant or deny any equitable relief, and therefore this Court's subject matter jurisdiction over equity cases is also not invoked. See Electronic Data Systems Corp. v. Heinemann, 268 Ga. 755, 756 (1) (493 SE2d 132) (1997). Accordingly, the Court hereby directs that the applications be transferred to the Court of Appeals.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

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

Lynn M. Stinchcomb, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 18, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0117

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

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

91010

10JV0963

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 18 2010

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

Holly K. A. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 02, 2010

The Court of Appeals passed the following order

Case No. A11D0118

JOHNNY CONNER NICHOLS V. RICKY MYRICK 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 02, 2010

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

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

Clerk.

Kelly K. A. Spencer

Court of Appeals of the State of Georgia

ATLANTA, NOV - 9 2010

The Court of Appeals hereby passes the following order:

A11D0118. Nichols v. Myrick et al.

Johnny Conner Nichols, who is currently incarcerated, seeks discretionary review of the trial court's September 3, 2010 order denying his request to proceed in forma pauperis in this civil action against various prison officials. Nichols, however, did not file his discretionary application until October 28, 2010.

To be timely, an application for discretionary appeal must be filed within 30 days of entry of the order at issue. See OCGA § 5-6-35 (d). Nichols filed his application 55 days after the trial court entered its order. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV - 9 2010

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 23, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0119

IN THE INTEREST OF: T. L., N. P.L., J. L., AND D. L., CHILDREN

(FATHER)

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

99010

15810J060

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 23 2010

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 23, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0120

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

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

98010

09JV1453

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 23 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 23, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0121

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

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

97010

2010CV189724

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 23 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 30, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0122

NICOLE ANN BATES V. TINA DIANE BATES

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

90011

2007CV133787

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 30 2010

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

Holly K. O. Lawson *Clerk.*

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 3, 2011

Clerk
Court of Appeals of Georgia
433 State Judicial Building
Atlanta, GA 30334

RECEIVED IN OFFICE
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CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Re: Timothy Sherod
v. Georgia Department of Corrections, et al.
No. 11-5164
(Your No. A11D0124)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

July 8, 2011

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2011 JUL 13 PM 12: 28
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Clerk
Court of Appeals of Georgia
433 State Judicial Building
Atlanta, GA 30334

Re: Timothy Sherod
v. Brian Owens, Commissioner, Georgia, Department of Corrections, et al.
No. 11-5164
(Your No. A11D0124)

Dear Clerk:

The petition for a writ of certiorari in the above entitled case was filed on July 8, 2011 and placed on the docket July 8, 2011 as No. 11-5164.

Sincerely,

William K. Suter, Clerk

by

Sandy Spagnolo
Case Analyst

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0625 Atlanta, April 26, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

TIMOTHY SHEROD v. CARLOTTA RICE 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0124

JUN - 6 2011

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COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 03, 2011

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

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

Pamela M. Fishburne, 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: December 29, 2010

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 **S11C0625**.

TIMOTHY SHEROD v. CARLOTTA RICE et al.

Clerk, Supreme Court of Georgia

Case No. A11D0124
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

DEC 29 2010

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA, December 1, 2010

The Court of Appeals hereby passes the following order:

A11D0123. William Dorsey, Jr. v. The State.

On November 3, 2010, William Dorsey, Jr. filed this application seeking discretionary review of a September 20, 2010 superior court order denying his extraordinary motion for new trial. To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because Dorsey filed his application 44 days after entry of the order he seeks to appeal, the application is untimely and is therefore DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 1 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

LC number(s): 2002CR01483

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 06, 2011

The Court of Appeals passed the following order

Case No. A11D0124

TIMOTHY L. SHEROD V. CARLOTTA RICE 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 06, 2011

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

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

Clerk.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 23, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0125

JOHN ALLEN ET AL V. ROBERT LEVERETT ET AL

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

70011

2010RCCV437

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 23 2010

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

Holly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 30, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0126

R.R. DONNELLEY ET AL V. TEDRAL OGLETREE

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

10CV9073

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 30 2010

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

Holly K. O. Lanoux *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 01, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0127

SHAKTI KRUPA, INC., ET AL V. FIRST JACKSON BANK

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

91011

10CI804

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 1 2010

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

Kelly K. O. Lamar *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0765 Atlanta, May 16, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DOMINIC MOCERI III 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11I0128

JUN - 6 2011

RECEIVED IN OFFICE
2011 JUN -6 AM 11:54
CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 03, 2011

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

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

Pamela M. Fishburne, Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11I0128

DOMINIC MOCERI III V. THE STATE

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

94011

SU08CR1832

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 13 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0128

DARRIN LEE V. THE STATE

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

95011

2006SUCR621

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 22 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, NOV 17 2010

The Court of Appeals hereby passes the following order:

A11D0129. ELLICOTT v. ELLICOTT.

Michael N. Ellicott filed an application for discretionary appeal in this Court, seeking review of the final judgment and decree of divorce entered by the trial court on February 25, 2010. The Supreme Court, however, has general appellate jurisdiction over divorce and alimony cases. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Accordingly, Ellicott's application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV 17 2010

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

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

Kelly K. A. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOV 24 2010

The Court of Appeals hereby passes the following order:

A11D0130. Miranda et al. v. Stewart.

Olga Maria Miranda and Luz Zulay Solano Monge ("applicants") seek discretionary review of the trial court's order denying their motion to set aside a prior ruling dismissing their complaint against Aaron E. Stewart. The application materials show that the trial court dismissed the complaint on March 26, 2007. The applicants subsequently moved to set that ruling aside under OCGA § 9-11-60, arguing, among other things, that they did not receive proper notice of the ruling and thus never had an opportunity to appeal. The trial court denied the motion to set aside on October 7, 2010, and the applicants filed this application for discretionary review.

The applicants followed the discretionary appeal procedures because an order denying a motion to set aside under OCGA § 9-11-60 (d) may only be reviewed through discretionary application. See OCGA § 5-6-35 (a) (8). But "[m]otions to set aside brought on the grounds that the court failed to notify the losing party of its decision are cognizable as motions to correct a clerical error pursuant to OCGA § 9-11-60 (g) and are properly the subject of a direct appeal." *Downs v. C. D. C. Federal Credit Union*, 224 Ga. App. 869 (1) (481 SE2d 903) (1997). The applicants, therefore, were not required to file a discretionary application in this case. See *Leventhal v. Moseley*, 264 Ga. 891, 892 (453 SE2d 455) (1995).

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. The applicants shall have ten days from the date

of this order to file a notice of appeal with the trial court.[1] See OCGA § 5-6-35 (g). If, however, the applicants have already filed a timely notice of appeal from the trial court's ruling, they need not file a second notice. The clerk of the trial 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, NOV 24 2010

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

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

Kelly K. A. Spanos *, Clerk.*

[1] As part of their appeal, the applicants may also challenge portions of the trial court's ruling that might otherwise be subject to the discretionary appeal procedures. See *Zitrin v. Ga. Composite State Bd. of Medical Examiners*, 288 Ga. App. 295, 296-298 (1) (653 SE2d 758) (2007); OCGA § 5-6-34 (d).

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 23, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0131
IN THE INTEREST OF: T. L., N. P. L., J. L., AND
D. L., CHILDREN (MOTHER)

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

99012
15810J060

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 23 2010

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

Holly K. O. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0132

FRANK PARRISH V. THE STATE

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

97011

SU93CR0794R2

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 29 2010

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

Kelly K A Spencer

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0690 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

AT&T CORP., et al. v. GEORGIA DEPARTMENT OF REVENUE 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0133

RECEIVED IN OFFICE
2012 MAR -7 PM 3:01
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 06, 2012

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.

Sui C. Sutton , 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: January 14, 2011

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 **S11C0690**.

AT&T CORP., et al. v. GEORGIA DEPARTMENT OF REVENUE et al.

Clerk, Supreme Court of Georgia

JAN 18 2011

Case No. A11D0133
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 01, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0133

AT & T CORP. ET AL V. GEORGIA DEPARTMENT

OF REVENUE ET AL

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

96011

2008CV161224

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 1 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 27, 2010

The Court of Appeals passed the following order

Case No. A11D0133

AT & T CORP. ET AL V. GEORGIA DEPARTMENT
OF REVENUE 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 27, 2010

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

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

Clerk.

Holly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 09, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0134

LINDA GASSES V. RONALD FREEMAN ET AL

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

90012

2010CV04587

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC - 9 2010

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

Kelly K. O. Spencer

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0616 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LINDA GASSES v. RONALD FREEMAN 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0134

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CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 18, 2011

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.

Lisa C. Hilton, 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: December 28, 2010

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 **S11C0616**.

LINDA GASSES v. RONALD FREEMAN et al.

Clerk, Supreme Court of Georgia

Case No. A11D0134
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

DEC 28 2010

Clerk, Court of Appeals of Georgia

7535

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 06, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0135

IN THE INTEREST OF: S. W. B. AND J. R. B., CHILDREN (MOTHER)

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

93012

1000342

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC - 6 2010

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

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0814 Atlanta, May 16, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILLIAM M. KECSKES v. PROFESSIONAL STANDARDS COMMISSION

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0136

JUN - 6 2011

RECEIVED IN OFFICE
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CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 03, 2011

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

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

Pamela M. Fishburne, 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: February 14, 2011

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 **S11C0814**.

WILLIAM M. KECSKES v. PROFESSIONAL STANDARDS COMMISSION

Clerk, Supreme Court of Georgia

Sent to S.C.
FEB 16 2011

Case No. A11D0136
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, JANUARY 24, 2011

The Court of Appeals passed the following order

Case No. A11D0136

WILLIAM M. KECSKES V. PROFESSIONAL STANDARDS COMMISSION

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 24, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0136

WILLIAM M. KECSKES V. PROFESSIONAL STANDARDS COMMISSION

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

71012

2010CV187001

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 14 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 03, 2010

The Court of Appeals hereby passes thefollowing order:

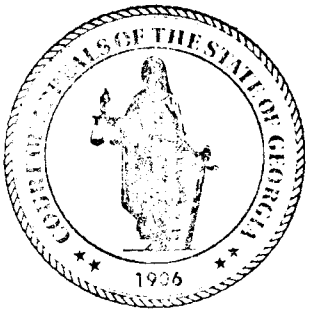
APPLICATION NO. A11D0137

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

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

70012

JUV100150



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC - 3 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 15, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0138

ADAM YOUMANS V. MCO TRANSPORT, INC., ET AL

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

92012

CE1001569067

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 15 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 13, 2011

The Court of Appeals passed the following order

Case No. A11D0139

FINLEY H. MERRY V. SUZANNE M. ROBINSON 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 13, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DEC 10 2010

The Court of Appeals hereby passes the following order:

A11D0139, A11D0140. Merry v. Robinson et al.

In February 2009, Suzanne Robinson, individually and as trustee of the Robinson Family Survivors Trust, sued Finley H. Merry and James Orland Crosby for numerous claims, including negligence, fraud, and breach of contract. Merry and Crosby failed to file a timely answer, and on August 20, 2009, the trial court entered default judgment against both defendants. Merry and Crosby subsequently moved to set aside the judgment pursuant to OCGA § 9-11-60 (d). Robinson consented to setting aside the default judgment entered against Crosby. As to Merry, however, she opposed the motion.

Based on Robinson's consent, the trial court granted Crosby's motion to set aside and vacated the judgment as to him. Merry then filed a second motion to set aside. In two separate orders entered on October 18, 2010, the trial court denied Merry's motions. Through the instant applications, Merry seeks permission to appeal both orders.

We lack jurisdiction. Generally, a party who wants to appeal the denial of a motion to set aside under OCGA § 9-11-60 (d) must follow the discretionary review procedures. See OCGA § 5-6-35 (a) (8). Merry complied with these requirements here. As noted above, however, the trial court vacated the judgment entered against Crosby, and nothing indicates that Robinson's claims involving Crosby have been dismissed or otherwise resolved. Accordingly, the litigation remains pending below. See *Guy v. Roberson*, 214 Ga. App. 391, 392 (1) (448 SE2d 60) (1994) (absent order dismissing case, grant of motion to set aside leaves suit pending in the trial court).

In a case involving multiple parties or multiple claims, a decision adjudicating

fewer than all claims or the rights and liabilities of less than all parties is not a final judgment. See *Johnson v. Hospital Corp. of America*, 192 Ga. App. 628, 629 (385 SE2d 731) (1989). To appeal, therefore, Merry was required to follow the interlocutory review procedures in OCGA § 5-6-34 (b). See *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (1) (408 SE2d 103) (1991) (discretionary application statute does not relieve applicant who seeks to appeal interlocutory order from complying with interlocutory review requirements). His failure to do so deprives us of jurisdiction over these discretionary applications, which are hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 10 2010

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

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

Kelly K. O. Lomax , *Clerk.*

LC# 2009V125

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 13, 2011

The Court of Appeals passed the following order

Case No. A11D0140

FINLEY H. MERRY V. SUZANNE M. ROBINSON 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 13, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, DEC 10 2010

The Court of Appeals hereby passes the following order:

A11D0139, A11D0140. Merry v. Robinson et al.

In February 2009, Suzanne Robinson, individually and as trustee of the Robinson Family Survivors Trust, sued Finley H. Merry and James Orland Crosby for numerous claims, including negligence, fraud, and breach of contract. Merry and Crosby failed to file a timely answer, and on August 20, 2009, the trial court entered default judgment against both defendants. Merry and Crosby subsequently moved to set aside the judgment pursuant to OCGA § 9-11-60 (d). Robinson consented to setting aside the default judgment entered against Crosby. As to Merry, however, she opposed the motion.

Based on Robinson's consent, the trial court granted Crosby's motion to set aside and vacated the judgment as to him. Merry then filed a second motion to set aside. In two separate orders entered on October 18, 2010, the trial court denied Merry's motions. Through the instant applications, Merry seeks permission to appeal both orders.

We lack jurisdiction. Generally, a party who wants to appeal the denial of a motion to set aside under OCGA § 9-11-60 (d) must follow the discretionary review procedures. See OCGA § 5-6-35 (a) (8). Merry complied with these requirements here. As noted above, however, the trial court vacated the judgment entered against Crosby, and nothing indicates that Robinson's claims involving Crosby have been dismissed or otherwise resolved. Accordingly, the litigation remains pending below. See *Guy v. Roberson*, 214 Ga. App. 391, 392 (1) (448 SE2d 60) (1994) (absent order dismissing case, grant of motion to set aside leaves suit pending in the trial court).

In a case involving multiple parties or multiple claims, a decision adjudicating

fewer than all claims or the rights and liabilities of less than all parties is not a final judgment. See *Johnson v. Hospital Corp. of America*, 192 Ga. App. 628, 629 (385 SE2d 731) (1989). To appeal, therefore, Merry was required to follow the interlocutory review procedures in OCGA § 5-6-34 (b). See *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (1) (408 SE2d 103) (1991) (discretionary application statute does not relieve applicant who seeks to appeal interlocutory order from complying with interlocutory review requirements). His failure to do so deprives us of jurisdiction over these discretionary applications, which are hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 10 2010

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

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

Kelly K. O. Spanos , *Clerk.*

LC# 2009V125

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0141

RANDOLPH FORDE V. CLAYTON COUNTY BOARD OF EDUCTION

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

91012

2010CV2788

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 14 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, DEC -3 2010

The Court of Appeals hereby passes the following order:

A11D0142. IN THE INTEREST OF T. S., a child (Mother).

On November 19, 2010, the mother of T. S. filed an application for discretionary appeal of the juvenile court's October 19, 2010 order terminating her parental rights. An application for discretionary appeal must be filed within 30 days of the order to be appealed. OCGA § 5-6-35 (d). This Court lacks jurisdiction to consider an untimely application. *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). Because the mother filed this application 31 days after entry of the order she seeks to appeal, we lack jurisdiction to consider it. The application is therefore ***DISMISSED***.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC -3 2010

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

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

Kelly K. A. Loma, *Clerk.*

LC# 09DE00140

Court of Appeals
of the State of Georgia

ATLANTA, DEC - 8 2010

The Court of Appeals hereby passes the following order:

A11D0143. CARSWELL v. THE STATE.

James Jackson Carswell filed an application for discretionary appeal from the trial court's order denying his motion for sentence modification. The denial of a timely motion to modify under OCGA § 17-10-1 (f) may be directly appealed. See, e. g., *Anderson v. State*, 290 Ga. App. 890 (660 SE2d 876) (2008); *Maldonado v. State*, 260 Ga. App. 580 (580 SE2d 330) (2003). Ordinarily, if a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order to be appealed. See OCGA § 5-6-35 (d) & (j); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because Carswell filed his application 51 days after entry of the order at issue here, it is untimely.[1] Accordingly, the application is hereby DISMISSED for lack of jurisdiction.

LC# 2010CR0163

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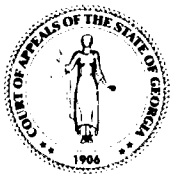
[1] Carswell initially attempted to file his application on November 12, 2010, but the application was not accepted for filing because it did not contain a certificate of service. Even if we had accepted the application on November 12, 2010, it still would have been untimely.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, DEC - 8 2010

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

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

Kelly K. A. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 17, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0144

RICKY LAMAR HOGAN V. DEKALB COUNTY

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

97012

101026066

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 17 2010

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

Kelly K. O. Spence

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 15, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0145

IN THE INTEREST OF: T. M. M. L. , A CHILD

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.

96012

10DP05608

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 15 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, DEC 14 2010

The Court of Appeals hereby passes the following order:

A11D0146. IN THE INTEREST OF: J. N. H., J. N. H., AND J. N. H., CHILDREN (MOTHER).
A11D0147. IN THE INTEREST OF: J. N. H. AND J. N. H., CHILDREN (FATHER).

The parents of these children filed these applications for discretionary appeal to challenge the termination of their parental rights. The trial court entered its termination orders on July 9, 2010. The parents filed motions for new trial, which they have failed to include with their applications. The trial court denied the motions for new trial on October 21, 2010, and on Monday, November 22, 2010, the parents filed these applications.

In order for this Court to have jurisdiction, an application for discretionary appeal must be timely filed. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). An application is timely if it is filed within 30 days of the entry of the order the applicant seeks to appeal. OCGA § 5-6-35 (d). Although a motion for new trial may extend the time in which appellate relief may be sought, such motion must also be filed within 30 days of the entry of judgment. OCGA §§ 5-5-40 (a), 5-6-35 (d). An untimely motion for new trial is void and does not toll the time for filing the application. See *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990).

We cannot determine whether the parents' motions for new trial were timely filed, and thus whether the motions tolled the time for filing their applications, because the parents have not included the motions with their applications. An applicant to this Court bears the burden of demonstrating that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). An applicant must "include a copy of any petition or motion which led directly to the order or

judgment being appealed." OCGA § 5-6-35 (c); Court of Appeals Rule 31 (b). By omitting the motions for new trial from their applications, the parents have failed to demonstrate that this Court has jurisdiction to consider their applications. Thus, these applications for discretionary appeal are hereby ***DISMISSED***.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 14 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DEC 14 2010

The Court of Appeals hereby passes the following order:

A11D0146. IN THE INTEREST OF: J. N. H., J. N. H., AND J. N. H., CHILDREN (MOTHER).
A11D0147. IN THE INTEREST OF: J. N. H. AND J. N. H., CHILDREN (FATHER).

The parents of these children filed these applications for discretionary appeal to challenge the termination of their parental rights. The trial court entered its termination orders on July 9, 2010. The parents filed motions for new trial, which they have failed to include with their applications. The trial court denied the motions for new trial on October 21, 2010, and on Monday, November 22, 2010, the parents filed these applications.

In order for this Court to have jurisdiction, an application for discretionary appeal must be timely filed. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). An application is timely if it is filed within 30 days of the entry of the order the applicant seeks to appeal. OCGA § 5-6-35 (d). Although a motion for new trial may extend the time in which appellate relief may be sought, such motion must also be filed within 30 days of the entry of judgment. OCGA §§ 5-5-40 (a), 5-6-35 (d). An untimely motion for new trial is void and does not toll the time for filing the application. See *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990).

We cannot determine whether the parents' motions for new trial were timely filed, and thus whether the motions tolled the time for filing their applications, because the parents have not included the motions with their applications. An applicant to this Court bears the burden of demonstrating that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). An applicant must "include a copy of any petition or motion which led directly to the order or

Court of Appeals of the State of Georgia

ATLANTA, DEC 20 2010

The Court of Appeals hereby passes the following order:

A11D0148. BAISDEN v. THE STATE.

Roger Baisden has filed an application for discretionary review in this Court, seeking to appeal the denial of his Motion for Relief from Judgment, which challenges his felony murder conviction and resulting life sentence. In *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984), the Supreme Court directed that all appeals in cases "in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder" shall be decided by that Court. Accordingly, this appeal is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 20 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loanoa , *Clerk.*

judgment being appealed." OCGA § 5-6-35 (c); Court of Appeals Rule 31 (b). By omitting the motions for new trial from their applications, the parents have failed to demonstrate that this Court has jurisdiction to consider their applications. Thus, these applications for discretionary appeal are hereby ***DISMISSED***.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 14 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0149

COVIAN CAMP V. THE STATE

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

71013

05CR275

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 27 2010

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

Holly K. D. Lanoux

Court of Appeals
of the State of Georgia

ATLANTA, FEB 16 2011

The Court of Appeals hereby passes the following order:

A11D0150. In the Interest of: D. K., K. K., and T. K., Children (Mother).

Th mother of the above minor children filed an application for discretionary appeal seeking to challenge the termination of her parental rights. This Court dismissed her application because she had failed to establish that her motion for new trial was timely filed. The mother then filed a motion for reconsideration, attaching a copy of her motion for new trial, which shows it was filed within 30 days of the entry of the juvenile court's order. Accordingly, the motion was timely filed and this Court has jurisdiction to consider the application.

The mother'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*.

LC # 2009J490 2009J491 2009J489

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 16 2011

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DEC 21 2010

The Court of Appeals hereby passes the following order:

A11D0150. In the Interest of: D. K., K. K., and T. K., Children (Mother).

The mother of these minor children filed this application for discretionary appeal to challenge the termination of her parental rights. The trial court entered its termination order on April 28, 2010. The mother filed motions for new trial, which she has failed to include with her application. The trial court denied the motions in three separate orders entered on November 2, 2010. On November 23, 2010, the mother filed this application.

In order for this Court to have jurisdiction, an application for discretionary appeal must be timely filed. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). An application is timely if it is filed within 30 days of the entry of the order the applicant seeks to appeal. OCGA § 5-6-35 (d). Although a motion for new trial may extend the time in which appellate relief may be sought, such motion must also be filed within 30 days of the entry of judgment. OCGA §§ 5-5-40 (a), 5-6-35 (d). An untimely motion for new trial is void and does not toll the time for filing the application. See *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990).

We cannot determine whether the mother's motions for new trial were timely filed, and thus whether the motions tolled the time for filing this application, because the mother has not included the motions with her application. An applicant to this Court bears the burden of demonstrating that her application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). An applicant must "include a copy of any petition or motion which led directly to the order or judgment being appealed." OCGA § 5-6-35 (c); Court of Appeals Rule 31 (b). By omitting the motions for new trial from her application, the mother has failed to demonstrate that

this Court has jurisdiction to consider her application. Thus, this application for discretionary appeal is hereby *DISMISSED*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 21 2010

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

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

Kelly K. A. Loarca , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, DEC 10 2010

The Court of Appeals hereby passes the following order:

A11D0151. JESSUP v. RAY ET AL.
A11D0162. RAY ET AL. v. JESSUP.

Faye Jessup filed a claim in magistrate court against Frank Ray, Pat Ray, and Fran Ray for breach of a lease contract. The Rays answered and filed a counterclaim. After the magistrate court entered judgment for Jessup, the Rays appealed to superior court. Jessup then filed a "dismissal without prejudice," and the Rays dismissed their counterclaim.

Jessup filed this action in superior court as a renewal action. The Rays answered and filed a counterclaim. The Rays then moved to dismiss Jessup's complaint. The superior court granted the motion to dismiss, finding that because Jessup had not filed the earlier appeal to superior court from magistrate court, she had no cause of action to renew. The court found that Jessup's dismissal did not dismiss the underlying case, and the former action was not dismissed until the Rays, the appellants of the magistrate court judgment, filed their voluntary dismissal. Although the superior court did not expressly dismiss the Rays' counterclaim in the instant action, it held that because the Rays did not renew their case, the magistrate court judgment stands reinstated, thereby implicitly dismissing the counterclaim. The parties filed these applications for discretionary appeal.

Under OCGA § 5-6-34 (a) (1), a party may file a direct appeal from "[a]ll final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35." OCGA § 5-6-34 (a) (1). It does not appear that any provision of OCGA § 5-6-35, the discretionary appeal statute, applies

here.[1] The trial court's dismissal of Jessup's complaint coupled with its implicit denial of the Rays' counterclaim amounted to a final judgment, leaving nothing "pending in the court below." Consequently, under OCGA § 5-6-34 (a) (1), the parties are entitled to pursue direct appeals of the trial court's order.

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, these applications are hereby ***GRANTED.*** The parties shall have ten days from the date of this order to file notices of appeal with the trial court. See OCGA § 5-6-35 (g). If, however, they have already filed timely notices of appeal from the trial court's ruling, they need not file another notice. The clerk of the trial 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, DEC 10 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. A. Sparrow , *Clerk.*

LC# 09CV069

[1]The parties do not explain why they filed applications for discretionary appeal.

91013

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 09, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0152

JOSEPH VICTOR YORK V. THE STATE

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

91013

06CR0422

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC -9 2010

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0153

JAMES WINFRED GADDIS 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.

95013

00CR556

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 14 2010

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, DEC 15 2010

The Court of Appeals hereby passes the following order:

A11D0154. Jeffrey Dutton v. Paula Kimbro.

The trial court entered an order that, among other things, found Jeffrey Dutton to be in contempt of the alimony provisions of a final judgment and decree of divorce. Dutton filed a motion for new trial, which the court denied. Dutton now seeks discretionary review in this Court.

The Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008) (appeal from judgment in contempt action seeking to enforce any divorce decree provision not involving child custody falls within the Supreme Court's jurisdiction). Because the underlying subject matter of this application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 15 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, DEC 13 2010

The Court of Appeals hereby passes the following order:

A11D0155. BOATWRIGHT v. THE STATE.

On November 17, 2010, Allen Boatwright filed this application for discretionary appeal seeking to appeal a December 23, 2009 order revoking his probation. 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). Because Boatwright's application was filed 329 days after the order he seeks to appeal, it is untimely. Accordingly, Boatwright's application for discretionary appeal is ***DISMISSED*** for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 13 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

LC# CR0300434

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 14, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0156

RUSSELL BOATNER 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.

97013

03CR22380

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 14 2010

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, DEC 16 2010

The Court of Appeals hereby passes the following order:

A11D0157. Whiters v. Turner et al.

David L. Whiters filed an application for discretionary review, seeking permission to appeal two November 3, 2010 orders finding him to be in willful civil contempt of a restraining order. A discretionary application, however, was not necessary here. Judgments of contempt are directly appealable. OCGA § 5-6-34 (a) (2); *In re Booker*, 186 Ga. App. 614 (367 SE2d 850) (1988). Moreover, the dispute in this case does not involve a matter otherwise subject to discretionary review, such as domestic relations. See OCGA § 5-6-35 (a) (2).

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Whiters shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal from the order at issue, he need not file a second notice. The clerk of the trial 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, DEC 16 2010

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

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

Kelly K. A. Loomer , *Clerk.*

LC# 10CV10784 & 10CV10785

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 27, 2011

The Court of Appeals passed the following order

Case No. A11D0158

ARLANDA A. SMITH V. RICHARD J. PENNINGTON

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 27, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 28, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0158

ARLANDA A. SMITH V. RICHARD J. PENNINGTON

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

93014

2009CV178926

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 28 2010

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

Holly K. D. Lanoue *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0809 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ARLANDA A. SMITH v. RICHARD J. PENNINGTON

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0158

RECEIVED IN OFFICE
2011 SEP 22 PM 12:40
CLERK'S COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 21, 2011

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.

Sui C. Britton , 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: February 11, 2011

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 **S11C0809**.

ARLANDA A. SMITH v. RICHARD J. PENNINGTON

Clerk, Supreme Court of Georgia

Sent to S. C.
FEB 16 2011

Case No. A11D0158
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 16, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0159
IN THE INTEREST OF: D. T. A., AND K. F. A., 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.

71014
1001001

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

DEC 16 2010
I certify that the above is a true extract from the minutes 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.

Holly K. O. Lyons

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0160

DEBBIE DEARMAN V. CAPITAL ONE BANK USA, N.A.

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.

70014

09SV1760

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 21 2010

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

Holly F. O. Pearson

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0161

LAURA S. MCRAE V. ARBY'S RESTAURANT GROUP, INC., ET AL

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

92014

2010CV191213

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 22 2010

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

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA, DEC 10 2010

The Court of Appeals hereby passes the following order:

A11D0151. JESSUP v. RAY ET AL.
A11D0162. RAY ET AL. v. JESSUP.

Faye Jessup filed a claim in magistrate court against Frank Ray, Pat Ray, and Fran Ray for breach of a lease contract. The Rays answered and filed a counterclaim. After the magistrate court entered judgment for Jessup, the Rays appealed to superior court. Jessup then filed a "dismissal without prejudice," and the Rays dismissed their counterclaim.

Jessup filed this action in superior court as a renewal action. The Rays answered and filed a counterclaim. The Rays then moved to dismiss Jessup's complaint. The superior court granted the motion to dismiss, finding that because Jessup had not filed the earlier appeal to superior court from magistrate court, she had no cause of action to renew. The court found that Jessup's dismissal did not dismiss the underlying case, and the former action was not dismissed until the Rays, the appellants of the magistrate court judgment, filed their voluntary dismissal. Although the superior court did not expressly dismiss the Rays' counterclaim in the instant action, it held that because the Rays did not renew their case, the magistrate court judgment stands reinstated, thereby implicitly dismissing the counterclaim. The parties filed these applications for discretionary appeal.

Under OCGA § 5-6-34 (a) (1), a party may file a direct appeal from "[a]ll final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35." OCGA § 5-6-34 (a) (1). It does not appear that any provision of OCGA § 5-6-35, the discretionary appeal statute, applies

here.[1] The trial court's dismissal of Jessup's complaint coupled with its implicit denial of the Rays' counterclaim amounted to a final judgment, leaving nothing "pending in the court below." Consequently, under OCGA § 5-6-34 (a) (1), the parties are entitled to pursue direct appeals of the trial court's order.

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, these applications are hereby ***GRANTED.*** The parties shall have ten days from the date of this order to file notices of appeal with the trial court. See OCGA § 5-6-35 (g). If, however, they have already filed timely notices of appeal from the trial court's ruling, they need not file another notice. The clerk of the trial 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, DEC 10 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

LC# 09CV069

[1]The parties do not explain why they filed applications for discretionary appeal.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0163

NEAL NODVIN ET AL V. JOEL AROGETI ET AL

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

94014

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 4 2011

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

Holly K. D. Lanoux *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 17, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0164

CHARLES STAFFORD V. BRYAN COUNTY

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.

91014

2010V394

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 17 2010

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

Holly K. O. Loomis

Court of Appeals of the State of Georgia

ATLANTA, DEC 27 2010

The Court of Appeals hereby passes the following order:

A11D0165. NICHOLS v. UPTON.

Johnny Nichols filed a petition for writ of mandamus against prison warden Steve Upton alleging, inter alia, that he was being denied adequate medical treatment and seeking a transfer to another prison. Nichols also requested to proceed in forma pauperis. By order entered November 2, 2010, the trial court determined that Nichols' petition was frivolous, and it refused to permit the filing of the action. The court also denied Nichols' forma pauperis request. Nichols then filed an application for discretionary appeal in this Court. The Supreme Court, however, has exclusive appellate jurisdiction over 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) ("'[C]ases involving the grant or denial of mandamus are within the exclusive jurisdiction of [the Supreme] Court without regard to the underlying subject matter or the legal issues raised.'"). Accordingly, this case is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 27 2010

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

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

Kelly K. A. Spanos, *Clerk.*

10ID8

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 30, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0166

IN THE INTEREST OF: I. J. W. AND M. P. W., CHILDREN (MOTHER)

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

99014

1000345

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 30 2010

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

Holly K. O. Lawson *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 27, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0167

JOSEPH ROMANO V. GEORGIA DEPARTMENT OF CORRECTIONS

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

98014

2010CV146

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 27 2010

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

Holly K. A. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 26, 2011

The Court of Appeals passed the following order

Case No. A11D0167

JOSEPH ROMANO V. GEORGIA DEPARTMENT OF CORRECTIONS

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 26, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 30, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0168

JAMES JACKSON CARSWELL V. CHERYL CARSWELL

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

97014

2006D0546

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 30 2010

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

Kelly K. O. Lamar *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, DEC 15 2010

The Court of Appeals hereby passes the following order:

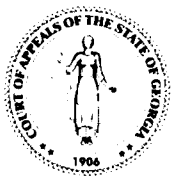
A11D0169. NOISETTE v. LEWIS.

Brent Noisette and Vanessa Lewis divorced in Texas. In 2010, Lewis filed a petition for a change of custody and visitation, and the trial court granted the petition. Noisette then filed this application for discretionary appeal.

Under the amended version of OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody" are directly appealable. See *Moore v. Moore-McKinney*, 297 Ga. App. 703, 704 (1) (678 SE2d 152) (2009). The amendment applies "to all child custody proceedings and modifications of child custody filed on or after January 1, 2008." Ga. Laws 2007, p. 554, § 8. Because the new version applies here, the order Noisette seeks to challenge is directly appealable.

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Noisette shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

LC# 10CV423JS



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 15 2010

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

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

Holly K. A. Lamour *, Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, DEC 15 2010

The Court of Appeals hereby passes the following order:

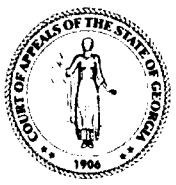
A11D0169. NOISETTE v. LEWIS.

Brent Noisette and Vanessa Lewis divorced in Texas. In 2010, Lewis filed a petition for a change of custody and visitation, and the trial court granted the petition. Noisette then filed this application for discretionary appeal.

Under the amended version of OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody" are directly appealable. See *Moore v. Moore-McKinney*, 297 Ga. App. 703, 704 (1) (678 SE2d 152) (2009). The amendment applies "to all child custody proceedings and modifications of child custody filed on or after January 1, 2008." Ga. Laws 2007, p. 554, § 8. Because the new version applies here, the order Noisette seeks to challenge is directly appealable.

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Noisette shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

LC# 10CV423JS



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, DEC 15 2010

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

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

Holly K. A. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 21, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0170
GEORGIA DEPARTMENT OF COMMUNITY HEALTH V. ELIZABETH DILLARD

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.

90015
2010CV324

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 21 2010

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

Kelly K. A. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 22, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0171

RICARDO LOVE 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.

93015

069006228

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 22 2010

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0172

DARI R. GATES V. PATRICIA FOX ET AL

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

71015

09V1450

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 4 2011

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

Holly K. O. Lanoue *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0173

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY V.

MARGARET HARDIN

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

2010CV190214

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 29 2010

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

Kelly K. O. Lawson *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, DEC 27 2010

The Court of Appeals hereby passes the following order:

A11D0174. Tucker v. Garland, Samuel & Loeb, P. C. et al.

On December 7, 2010, inmate Charles Tucker filed an application for discretionary review, seeking to challenge the trial court's October 25, 2010 order granting summary judgment to the defendants in this civil action.[1] To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Tucker filed his application 43 days after the trial court entered its order. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 27 2010

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

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

Kelly K. O. Lamar , *Clerk.*

[1] Although we initially received Tucker's application on November 18, 2010, we could not accept it for filing because Tucker failed to include the filing fee or pauper's affidavit required by OCGA § 5-6-4 and Court of Appeals Rule 5.

2010CV185325

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 05, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0175

NATIONAL ENVELOPE CORPORATION ET AL V. VALERIE HUBBERT

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

91015

10108879

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN - 5 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0176

LAVERNE BURNS V. DEPARTMENT OF ADMINISTRATIVE SERVICES RISK MANAGEMENT SERVICES

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

95015

2010CV191103

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 29 2010

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

Holly K. D. Lamour *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 07, 2011

The Court of Appeals passed the following order

Case No. A11D0176

LAVERNE BURNS V. DEPARTMENT OF ADMINISTRATIVE SERVICES RISK MANAGEMENT SERVICES

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 07, 2011

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

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

Clerk.

Holly K. O. Sparrow

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 16, 2011

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 **S11C0829**.

LAVERNE BURNS v. DEPARTMENT OF ADMINISTRATIVE SERVICES RISK MANAGEMENT SERVICES

Clerk, Supreme Court of Georgia

Sent to S.C.
FEB 17 2011

Case No. A11D0176
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. S11C0829 Atlanta, May 31, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LAVERNE BURNS v. DEPARTMENT OF ADMINISTRATIVE SERVICES RISK MANAGEMENT SERVICES

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0176

RECEIVED IN OFFICE
2011 JUN 16 PM 4:21
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 16, 2011

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

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

Pamela M. Fishburne, Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S11C0829

Atlanta, May 31, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

LAVERNE BURNS v. DEPARTMENT OF ADMINISTRATIVE SERVICES RISK MANAGEMENT SERVICES

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Court of Appeals Case No. A11D0176

SUPREME COURT OF THE STATE OF GEORGIA
JUN 16 2011
Clerk's Office, Atlanta

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

, Clerk

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 16, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0177

IN THE INTEREST OF: C. H. G., H. A. G., AND B. C. G., CHILDREN (FATHER)

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

99015

03510J0201

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 16 2010

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0178

TANZIA FRANKS V. MICHAEL THURMOND, COMMISSIONER

GEORGIA DEPARTMENT OF LABOR ET AL

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

98015

2010CV181507

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 29 2010

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

Kelly K. A. Spencer *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0179

SUSA NASA V. STEVEN UPTON, WARDEN 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.

97015

10ID9

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 4 2011

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

Holly K. O. Lanier *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, DEC 29 2010

The Court of Appeals hereby passes the following order:

A11D0180. BARNES v. THE STATE.

On December 10, 2010, Michael Barnes filed this application for discretionary appeal, seeking to appeal the November 2, 2010 order denying his motion to correct void sentence.[1] To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Barnes filed his application 38 days after the trial court entered its order. Accordingly, we lack jurisdiction to consider the application, which is hereby ***DISMISSED*** as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 29 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

[1]Although we initially received Barnes's application on December 2, 2010, we could not accept it for filing because it did not contain a proper certificate of service as required by Court of Appeals Rule 6.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 11, 2011

The Court of Appeals passed the following order

Case No. A11D0180

MICHAEL E. BARNES 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 FEB 11, 2011

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

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

Clerk.

Kelly K. O. Spanos

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 25, 2011

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 **S11C0887**.

MICHAEL E. BARNES v. THE STATE

Clerk, Supreme Court of Georgia

MAR - 1 2011

Case No. A11D0180
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. S11C0887 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHAEL E. BARNES 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0180

RECEIVED IN OFFICE
2011 SEP 22 PM 12:37
CLERK/ASSISTANT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 21, 2011

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.

Sui C. Sutton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, JAN - 6 2011

The Court of Appeals hereby passes the following order:

A11D0181. EARLE v. EARLE.

Myrlin and Caroline Earle divorced in 2005. Myrlin filed a motion for contempt, arguing that Caroline had failed to comply with various custodial provisions in the decree. The trial court denied the petition, and Myrlin filed an application for discretionary appeal.[1]

Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody or holding or declining to hold persons in contempt of such child custody judgment or orders" are now directly appealable. See also *Moore v. Moore-McKinney*, 297 Ga. App. 703, 704-05 (1) (678 SE2d 152) (2009); OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is in issue.").

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Myrlin Earle's application is *GRANTED*. He shall have ten days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

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[1] Myrlin filed his application with the Supreme Court, which found the issues raised "relate solely to child custody" and thus transferred the matter to this Court.

LC# 2004CV88790

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JAN - 6 2011

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

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

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0182

MEGAN WHELPLEY V. DOUGLAS COUTNY BOARD OF EDUCATION

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

93016

10CV01496

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 13 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JAN - 7 2011

The Court of Appeals hereby passes the following order:

A11D0183. Laura Davis v. Cathy Grigg.

Laura Davis, the maternal grandmother of several minor children, filed a petition for grandparent visitation. After the trial court dismissed the petition, Davis filed this application for discretionary appeal.

Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody" are now directly appealable.[1] The effect of this broad language is that a party seeking to appeal any order in a child custody case is no longer required to comply with the discretionary appeal procedure of OCGA § 5-6-35 (a) (2). See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). Under Georgia law, "[v]isitation is considered a custody issue." *Daniels v. Barnes*, 289 Ga. App. 897, 899 n. 1 (658 SE2d 472) (2008); see also OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is in issue."). Thus, the order that Davis seeks to appeal is directly appealable.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Davis shall have ten days from the date of this order to file a notice of appeal with the trial court. The clerk of the trial court is

---

[1] The statute applies "to all child custody proceedings and modifications of child custody filed on or after January 1, 2008." Ga. Laws 2007, p. 554, § 8. The petition in this case was filed on April 9, 2010, and therefore comes within the ambit of the statute.

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, JAN - 7 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, DEC 29 2010

The Court of Appeals hereby passes the following order:

A11D0184. PERLMAN v. PERLMAN.

During the divorce proceedings of Scott Perlman and Rachel Perlman, the superior court awarded sole custody of their two children to Rachel Perlman. In October 2010, Scott Perlman sought family violence protective orders on behalf of each child, and the trial court entered ex parte temporary protective orders awarding Scott Perlman temporary custody of the children. One month later, the trial court dismissed the ex parte temporary protective orders, directed that the children be returned to Rachel Perlman's custody, and ordered that Rachel Perlman be allowed to leave the state with the children. Scott Perlman then filed this application.

Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody or holding or declining to hold persons in contempt of such child custody judgment or orders" are now directly appealable. See also *Moore v. Moore-McKinney*, 297 Ga. App. 703, 704-05 (1) (678 SE2d 152) (2009); OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is in issue.").

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Scott Perlman's application is ***GRANTED***. He shall have ten days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial 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, DEC 29 2010

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

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

Kelly K. A. Loomer *, Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 06, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0185
IN THE INTEREST OF: G. I. H., A CHILD (FATHER)

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

92016
03910J102

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN - 6 2011

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

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA, JAN 14 2011

The Court of Appeals hereby passes the following order:

A11D0186. Caldwell v. Meadows.

William Robert Meadows has asked this Court to impose a penalty not to exceed $2500 against Jonell Caldwell in connection with her application for discretionary appeal. According to Meadows, Caldwell's application is frivolous, warranting a frivolous appeal penalty. On December 28, 2010, however, we granted Caldwell's application. Accordingly, Meadows's motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 14 2011

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

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

Kelly K. A. Lawson , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, DEC 28 2010

The Court of Appeals hereby passes the following order:

A11D0186. Caldwell v. Meadows.

Jonell Caldwell gave birth to a son in December 2007. William Robert Meadows, the child's biological father, subsequently petitioned to legitimate the child and to establish custodial rights. Following a hearing, the trial court granted the legitimation petition, awarded Meadows joint legal custody, and set up a visitation schedule. Caldwell now seeks discretionary review of that ruling.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). The order in this case established legal custody over the child and granted Meadows visitation, which "is considered a custody issue." *Daniels v. Barnes*, 289 Ga. App. 897, 899 n. 1 (658 SE2d 472) (2008); see also OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue."). Thus, the order may be appealed directly.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Caldwell shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the trial 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, DEC 28 2010

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

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

Kelly K. O. Lomax , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0719 Atlanta, May 16, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SHARIDA ARLINE v. DUBLINAIR HEALTH CARE AND REHAB CENTER 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0187

JUN - 6 2011

RECEIVED IN OFFICE
2011 JUN -6 AM 11:54
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 03, 2011

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

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

Pamela M. Fishburne, 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: January 21, 2011

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 **S11C0719**.

SHARIDA ARLINE v. DUBLINAIR HEALTH CARE AND REHAB CENTER et al.

Clerk, Supreme Court of Georgia

JAN 26 2011

Case No. A11D0187
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, JANUARY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0187

SHARIDA ARLINE V. DUBLINAIR HEALTH CARE AND REHAB CENTER ET AL

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

91016

2010CG1334

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 13 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 29, 2010

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0188

IN THE INTEREST OF: T. S., T. S. AND W. S., CHIDREN (MOTHER)

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

95016

01110J1510

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 29 2010

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

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

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0189

LEONARD P. MACHULAS V. PAUL KELLY TUTEN ET AL

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

99016

2010STSV46

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN - 7 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0190
SKY KING 101, LLC 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 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.

98016
10CV01852

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN -7 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JAN 18 2011

The Court of Appeals hereby passes the following order:

A11D0191. New Life Home Care, Inc. v. Georgia Department of Community Health et al.

New Life Home Care, Inc. applied to the Georgia Department of Community Health ("GDCH") to provide certain mental health residential services. During the administrative process, New Life was represented by its self-described "lead officer," Brenda Parker. GDCH denied New Life's application, and New Life – acting through Parker – appealed to the superior court. The superior court dismissed the application as untimely, and it also noted that under Georgia law, a corporation must be represented by an attorney of record in a proceeding in a court of record. New Life, still represented by Parker, then filed this application for discretionary appeal.

As the superior court noted, "[i]n this state, only a licensed attorney is authorized to represent a corporation in a proceeding in a court of record, including any proceeding that may be transferred to a court of record from a court not of record." *Eckles v. Atlanta Technology Group*, 267 Ga. 801, 805 (2) (485 SE2d 22) (1997). A non-lawyer is not legally permitted to file pleadings on behalf of a corporation. See *Congress Re-Insurance Corp. v. Archer-Western Contractors, Ltd.*, 226 Ga. App. 829, 831 (1) (487 SE2d 679) (1997). Thus, Parker was not legally permitted to file this application, and it should not have been docketed. We therefore DISMISS the application as having been improvidently docketed.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JAN 18 2011

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

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

Kelly K. A. Loarca , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0743 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

NEW LIFE HOME CARE, INC. v. GEORGIA DEPARTMENT OF COMMUNITY HEALTH 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0191

RECEIVED IN OFFICE
2011 SEP 22 PM 12:41
COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 21, 2011

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 08, 2011

The Court of Appeals passed the following order

Case No. A11D0192

JAMES THORSTEN ET AL V. PROMMIS SOLUTIONS, LLC 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 FEB 08, 2011

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

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

Clerk.

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0898 Atlanta, May 31, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LAXAVIER REDDICK HOOD et al. v. PROMMIS SOLUTIONS, LLC 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0192

RECEIVED IN OFFICE
2011 JUN 16 PM 4:21
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 16, 2011

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

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

Pamela M. Fishburne, Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S11C0898

Atlanta, May 31, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

LAXAVIER REDDICK HOOD et al. v. PROMMIS SOLUTIONS, LLC et al.

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Court of Appeals Case No. A11D0192

SUPREME COURT OF THE STATE OF GEORGIA
JUN 16 2011
Clerk's Office, Atlanta

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

Thiia A Bamm, Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0193
IN THE INTEREST OF: A. B., 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.

90017
005091030

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 14 2011

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

Holly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0194

SHARLA ODOM V. JAMES WENDELL BROWN, JR.

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

93017

2010CV181053

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 13 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 19, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0195

ANJI REDDY BODANA V. GEORGIA STATE BOARD OF VETERINARY MEDICINE

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

71017

10CV53981

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 19 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JAN - 6 2011

The Court of Appeals hereby passes the following order:

A11D0196. ROBINSON v. ROBINSON.

After Calita Elston Robinson filed a complaint for divorce, the trial court entered an order requiring her to pay temporary alimony to her husband, George Robinson, Jr. Ms. Robinson now seeks discretionary review of an order finding her to be in willful contempt for failing to make the required payments. She asserts, among other things, that the trial court had modified her alimony obligation.

"[T]he Supreme Court shall have appellate jurisdiction of . . . [a]ll divorce ***and*** alimony cases. . . ." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6) (emphasis supplied). Because this application solely involves alimony, it lies outside the jurisdiction of this Court. See generally *Morris v. Morris*, 284 Ga. 748 (670 SE2d 84) (2008); *Anthony v. Anthony*, 236 Ga. 508 (224 SE2d 349) (1976); *Shepherd v. Shepherd*, 233 Ga. 228 (210 SE2d 731) (1974). The application is therefore ***TRANSFERRED*** to the Supreme Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN - 6 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

LC# 08CV4134

Court of Appeals of the State of Georgia

ATLANTA, JAN 25 2011

The Court of Appeals hereby passes the following order:

A11D0197. TAYLOR v. THE STATE.

On December 23, 2010, Mark S. Taylor filed an application for discretionary appeal seeking review of the trial court's November 10, 2010 order denying his motion for out-of-time appeal. It appears that the order in question is directly appealable. See, e.g., *Ingram v. State*, 300 Ga. App. 834 (686 SE2d 440) (2009); *Lewis v. State*, 300 Ga. App. 586 (685 SE2d 485) (2009). Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Taylor filed his application over 43 days after entry of the order at issue here.[1] Accordingly, his application is untimely and must be DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 25 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

[1] Taylor attempted to file the application earlier, but it was returned to him for failure to include a certificate of service as required by Court of Appeals Rule 1.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0198
IN THE INTEREST OF: W. F., K. F., B. F., Q. F.
AND J. F., CHILDREN (MOTHER)

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

94017
10CV2645

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 24 2011

I certify that the above is a true extract from the minutes 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.
Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0199

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

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

91017

10CV3942

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 21 2011

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

Holly K. O. Ipanaqué

Court of Appeals of the State of Georgia

ATLANTA, DEC 29 2010

The Court of Appeals hereby passes the following order:

A11D0200. HOWARD v. GMAC MORTGAGE LLC.

Matthew W. Howard seeks review of an order granting a writ of possession. From the limited materials Howard has included with his discretionary application, it appears that no provision of OCGA § 5-6-35 (a) is applicable to this case. Although the case originated in magistrate court, it was transferred – not appealed – to the superior court.[1] Nor does the case appear to involve the issue of rent.[2] The order, therefore, is directly appealable, and this application is ***GRANTED*** as required by OCGA § 5-6-35 (j). Howard shall have ten days from the date of this order to file a notice of appeal with the superior 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, DEC 29 2010
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

---

[1]See OCGA § 5-6-35 (a) (1) ("[a]ppeals from decisions of the superior courts reviewing decisions of . . . lower courts by certiorari or de novo proceedings. . .").

[2]See OCGA § 5-6-35 (a) (3) ("[a]ppeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is $2,500.00 or less").

Court of Appeals of the State of Georgia

ATLANTA,

JAN 13 2011

The Court of Appeals hereby passes the following order:

A11D0202. Robinson v. The State.

On December 22, 2010, Antonio Robinson filed this application for discretionary appeal, seeking to challenge the trial court's November 10, 2010 order denying his motion to withdraw his guilty plea.[1] To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Robinson filed his application 42 days after the trial court entered its order. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED as untimely.[2]

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 13 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

LC# SU96CR1038

[1] Although we initially received Robinson's application on December 9, 2010, we could not accept it for filing because Robinson failed to include the filing fee or sufficient pauper's affidavit required by OCGA § 5-6-4 and Court of Appeals Rule 5.

[2] We note that Robinson has also filed a direct appeal involving the trial court's November 10, 2010 order. That appeal has been docketed as A11A0644.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0764 Atlanta, May 31, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOHNNY REUTO 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0203

RECEIVED IN OFFICE
2011 JUN 16 PM 4:21
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 16, 2011

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

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

Pamela M. Fishburne, Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S11C0764

Atlanta, May 31, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

JOHNNY REUTO v. THE STATE

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Court of Appeals Case No. A11D0203

SUPREME COURT OF THE STATE OF GEORGIA

JUN 16 2011
Clerk's Office, Atlanta

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

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

, 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: February 01, 2011

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 **S11C0764**.

JOHNNY REUTO v. THE STATE

Clerk, Supreme Court of Georgia

FEB - 4 2011

Case No. A11D0203
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, JAN 21 2011

The Court of Appeals hereby passes the following order:

A11D0203. Johnny Reuto v. The State.

Johnny Reuto was convicted on multiple drug charges and received a sentence of life imprisonment. He later filed a motion to vacate his conviction and sentence on the ground that they were void. The trial court denied the motion. Reuto then filed an application for discretionary appeal in the Supreme Court, which transferred it here. We, however, lack jurisdiction.

In *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009), the Supreme Court determined that "a petition to vacate or modify a judgment of conviction is not an appropriate remedy in a criminal case." Any appeal from an order denying or dismissing such a motion, therefore, must be dismissed. *Harper*, supra; see also *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). A direct appeal lies from an order denying a motion to correct a void sentence only if the defendant raises a colorable claim that the sentence is, in fact, void. See *Harper*, supra at n.1; *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). And a sentence that falls within the statutory range of punishment is not void. See *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004).

Reuto does not contend that his sentence exceeds the legal limits. Rather, he argues that his indictment was flawed, that the jury composition was constitutionally defective, and that he received ineffective assistance of counsel. Because these arguments do not raise a valid "void sentence" claim, Reuto's application must be dismissed. See id. at 670-671.

Additionally, the application is untimely. The trial court entered its order on October 19, 2010, but Reuto did not file his application in the Supreme Court until 31

days later, on November 19, 2010. 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 Court lacks jurisdiction to consider an untimely application. *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983).

For these reasons, this application is hereby DISMISSED for lack of jurisdiction.

LC# 1994RCCR567

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 21 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

SUPREME COURT OF GEORGIA
Case No. S11D0480

Atlanta December 10, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOHNNY REUTO v. THE STATE.

From the Superior Court of Richmond County.

Although applicant states that jurisdiction over his appeal from the order denying his motion to vacate void judgment and sentence lies in the Supreme Court because he filed a "Writ of Certiorari," applicant was convicted on drug charges, not murder, and there is no basis to petition for certiorari from the order he seeks to appeal. Accordingly, the application for discretionary appeal hereby is transferred to the Court of Appeals.

RECEIVED IN OFFICE
2010 DEC 28 AM 9:17
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.

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

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.
2010 DEC 29 AM 9:27
RECEIVED IN OFFICE

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0204

KEVIN DOUGLAS STOCKTON V. THE STATE

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

97017

2009SUCR42

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 21 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0205

IN THE INTEREST OF: C. L. K., D. M. K., A. G. K., R. I. K., R. C. K., S. M. K. AND J. L. K., CHILDREN (FATHER)

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

96017

14710J0705

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 21 2011

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

Holly K. A. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 19, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0206
GEORGE BIRCHBY V. JAMIE CARBOY

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.

90018
10SUCV510

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
JAN 19 2011
I certify that the above is a true extract from the minutes 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.
Kelly K. O. Spann

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 26, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0207

MILL CREEK COMMUNITY ASSOCIATION INC. V. V.

CARLOS LINO

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

93018

10G5208

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 26 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0208

FINLEY H. MERRY V. SUZANNE M. ROBINSON 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.

94018

2009V125

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 24 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0209

THE KROGER COMPANY V. PAMELA PAPPAS

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

71018

2010SUV705

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 27 2011

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

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C0997 Atlanta, June 13, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

STEVEN J. SEIBERT v. LESLIE M. SWORDS

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0210

RECEIVED IN OFFICE
2011 JUL -1 PM 3:37
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 30, 2011

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.

Sui C. Sutton, 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, 2011

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 **S11C0997**.

STEVEN J. SEIBERT v. LESLIE M. SWORDS

Clerk, Supreme Court of Georgia

Case No. A11D0210
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office MAR 18 2011

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 03, 2011

The Court of Appeals passed the following order

Case No. A11D0210

STEVEN J. SEIBERT V. LESLIE M. SWORDS

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 03, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JAN 18 2011

The Court of Appeals hereby passes the following order:

A11D0210. SEIBERT v. SWORDS.

On December 30, 2010, Steven J. Seibert filed this application for discretionary appeal, seeking review of the trial court's November 15, 2010 order purportedly denying his motion to set aside. An application for discretionary appeal must be filed within 30 days of the order to be appealed. OCGA § 5-6-35 (d). Because Seibert filed his application 45 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 18 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 26, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0211

IN THE INTEREST OF: C. L. K., D. M. K., A. G. K., R. I. K., R. C. K., S. M. K. AND J. L. K., CHILDREN (MOTHER)

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

96018

14710J0705

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 26 2011

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

Holly K. O. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 01, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0212

CEDRIC DEVON MILDTON V. THE STATE

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

92018

09R192

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 1 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0213

RICHARD BAINES V. THE STATE

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

95018

07SR433

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 27 2011

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

Kelly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEB -3 2011

The Court of Appeals hereby passes the following order:

A11D0214. James J. McIntyre v. The State.

A jury found James J. McIntyre guilty of child molestation, and we affirmed his conviction on appeal. *McIntyre v. State*, 302 Ga. App. 778 (691 SE2d 663) (2010). McIntyre later filed a motion to vacate his conviction. On July 20, 2010, the trial court dismissed the motion. On October 13, 2010, McIntyre filed an application for discretionary appeal in the Supreme Court, which transferred the application here.

There are two problems with McIntyre's application. First, it is untimely. To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). McIntyre filed his application in the Supreme Court 85 days after the trial court entered its order. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra.

Second, as the trial court noted, "[a] motion to vacate a conviction . . . is not one of the established procedures for challenging the validity of a judgment in a criminal case. Because [McIntyre] was not authorized to seek relief from his criminal convictions pursuant to a motion to vacate or correct a void conviction, there is nothing for this Court to review and his [application for discretionary] appeal is subject to dismissal." (Citations omitted.) *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). See also *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009) (overruling *Chester v. State*, 284 Ga. 162, 162-163 (2) (664 SE2d 220) (2008)); *Matherlee v. State*, 303 Ga. App. 765 (694 SE2d 665) (2010).

For these reasons, this application for discretionary appeal is hereby DISMISSED.

LC# 2007CR199

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, FEB - 3 2011

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 26, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0215

OSMAN LOPEZ V. PILGRIMS PRIDE ET AL

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

98018

10CV02195

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 26 2011

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

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

Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0216

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

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

97018

101113

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 27 2011

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

Kelly K. O. Spanow

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 31, 2011

The Court of Appeals hereby passes thefollowing order:

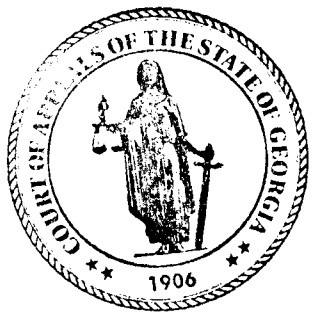
APPLICATION NO. A11D0217

ROSELVI MALIT V. AMERICAN NATIONAL RED CROSS/GATES MCDONALD & CO.

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

90019

10CV54245



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 31 2011

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

Kelly K. O. Lanoue

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0218

JOSEPH BREWER V. WELLSTAR HEALTH SYSTEM 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.

93019

1011020905

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 28 2011

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

Holly K. O. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 20, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0219

MATTHEW HENRY MATTOX V. CYNTHIA MARIE COE

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

71019

2010V0855

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 20 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, FEB -7 2011

The Court of Appeals hereby passes the following order:

A11D0220. In the Interest of: M. M. C., a Child (Father).

On November 16, 2010, the superior court entered an order terminating Robert Kerry Crumley's parental rights to his biological child, M. M. C. On December 8, 2010, the court entered an order granting M. M. C.'s stepfather's petition to adopt her. On January 7, 2011, Crumley filed this discretionary application. Although he does not specify which order he seeks to appeal, his pro se application brief suggests that he wishes to challenge both.

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). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Crumely filed this application 52 days after entry of the order terminating his parental rights. Thus, to the extent that he seeks to challenge that order in this application, the application is untimely. And because Crumley's parental rights have been terminated, he lacks standing to challenge the adoption order. See *Hinkins v. Francis*, 154 Ga. App. 716 (270 SE2d 33) (1980).

For these reasons, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB -7 2011

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

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

Kelly K. O. Spencer , *Clerk.*

LC# 10A006

Court of Appeals of the State of Georgia

ATLANTA, FEB 10 2011

The Court of Appeals hereby passes the following order:

A11D0221. Vivek Pampattiwar v. Rupali Chitre.

Vivek Pampattiwar seeks discretionary review of the trial court's order denying his motion to set aside a divorce decree. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, ¶ III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). As the underlying subject matter of this application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 10 2011

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, JAN 26 2011

The Court of Appeals hereby passes the following order:

A11D0222. JACKSON v. THE STATE.

Curtis Jackson seeks discretionary review of the trial court's order denying his motion for an out-of-time criminal appeal. The order in question, however, may be appealed directly. See, e.g., *Ingram v. State*, 300 Ga. App. 834 (686 SE2d 440) (2009); *Lewis v. State*, 300 Ga. App. 586 (685 SE2d 485) (2009). Accordingly, this application for discretionary appeal is GRANTED pursuant to OCGA § 5-6-35 (j). Jackson shall have ten days from the date of this order to file a notice of appeal with the trial court. If he has already filed a notice of appeal from the order at issue, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

LC# 2007CR348

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 26 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0223

IN THE INTEREST OF: A. G., AND E. G., CHILDREN (FATHER)

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

91019

15810J064

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB - 4 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0224

IN THE INTEREST OF: T. P., A CHILD (FATHER)

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

95019

10D9064

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB -7 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 10, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0225

CHARLES BRANNON V. CONTINENTAL CASUALTY CO., ET AL

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

99019

STCV1002307

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 10 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0226

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

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

95020

10DP0641

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 7 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0227

EAGLE WEST, LLC, V. GEORGIA DEPARTMENT OF TRANSPORTATION

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

98019

10V1424

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 11 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0228

GIBSON CONSTRUCTION COMPANY V. GAA ACQUISITIONS I, 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.

92020

2009CV163402

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 16 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, FEB - 3 2011

The Court of Appeals hereby passes the following order:

A11D0229. Tony Stephens v. Composite State Board of Medical Examiners.

In an order entered September 20, 2010, the trial court denied the *in forma pauperis* filing of prison inmate Tony Stephens's civil action against the Composite State Board of Medical Examiners. On January 11, 2011, Stephens filed this application seeking discretionary review of the trial court's order. 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). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Stephens filed this application 113 days after entry of the order denying his filing. The application is untimely and, accordingly, is hereby DISMISSED for lack of jurisdiction.

LC# 05134075

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB - 3 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , Clerk.

Court of Appeals of the State of Georgia

ATLANTA, FEB 11 2011

The Court of Appeals hereby passes the following order:

A11D0230. CARR v. THE STATE.

Sean Carr, acting pro se, filed this discretionary application to appeal his convictions for driving with an expired tag and failing to have his driver's license in his immediate possession while operating a motor vehicle. Carr's convictions are directly appealable final judgments. When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j).

Because this application falls under OCGA § 5-6-35 (j), it is hereby GRANTED. Carr shall have ten days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). The clerk of the state court is directed to include a copy of this order in the record transmitted to the Court of Appeals. The clerk of this Court is directed to change the style of the application from "Sean Carr v. Clayton County" to "Sean Carr v. State of Georgia."

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , Clerk.

LC# 2010TK19656 2010TK1958

Court of Appeals of the State of Georgia

ATLANTA, FEB 11 2011

The Court of Appeals hereby passes the following order:

A11D0231. HOVER v. BRIGHT FROM THE START: GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING.

Leroy Hover seeks discretionary review of the superior court's order affirming an administrative decision denying his application to operate a group day care home. The order was entered on December 7, 2010, but Hover did not file this application until January 18, 2011. 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). Hover, however, filed his application 42 days after entry of the order at issue here. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED. See *Hill*, supra.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 11 2011

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

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

Kelly K. O. Spencer, *Clerk.*

LC# 10V498

Court of Appeals of the State of Georgia

ATLANTA, FEB 11 2011

The Court of Appeals hereby passes the following order:

A11D0232. Helen E. Sullivan v. James T. Sullivan, Jr. et al.

The superior court granted summary judgment to defendant Aurora Loan Services, LLC in this dispute over title to a property in which plaintiff Helen Sullivan claims a life interest. Sullivan then filed an application for discretionary review in the Supreme Court, which transferred the application here upon finding that it lacked jurisdiction.

No application is required, however, as an order granting summary judgment is subject to direct appeal. See OCGA § 9-11-56 (h). This Court will grant an otherwise timely discretionary application if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. OCGA § 5-6-35 (j). Since it does not appear that Sullivan has filed a notice of appeal, this application for discretionary appeal is hereby GRANTED.

Sullivan shall have 10 days from the date of this order in which 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 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , Clerk.

LC# CV082948

Court of Appeals of the State of Georgia

ATLANTA, FEB 14 2011

The Court of Appeals hereby passes the following order:

A11D0233. FARRIS v. FIRST FINANCIAL BANK et al.

Harold J. Farris, acting pro se, seeks discretionary review of the trial court's order granting First Financial Bank's and Campbell, Martin & Manley's motions for summary judgment and denying Farris's motion for summary judgment. This final order resolves Farris's action for damages for wrongful foreclosure and unspecified equitable relief and does not fall within OCGA § 5-6-35 (a) so as to require appeal by application. The order is also directly appealable under OCGA § 9-11-56 (h). This Court will grant an otherwise timely discretionary application if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. OCGA § 5-6-35 (j). Since it does not appear that Farris has filed a notice of appeal, this application for discretionary appeal is hereby GRANTED.

Farris shall have 10 days from the date of this order in which 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 14 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 17, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0234

CASC, INC ET AL V. SKYDIVE ARIZONA, 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.

70020

10G33416

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 17 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 16, 2011

The Court of Appeals hereby passes thefollowing order:

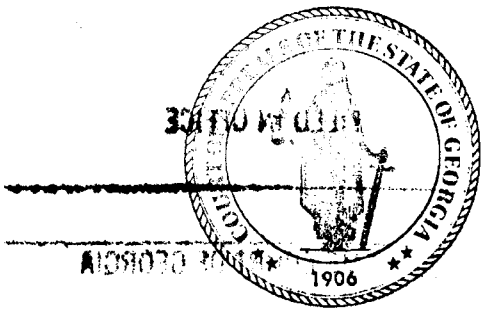
APPLICATION NO. A11D0235

NELSON COLON V. MARTIN TRANSPORT ET AL

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

94020

2010CV193153



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 16 2011

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

Holly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 22, 2011

The Court of Appeals passed the following order

Case No. A11D0235

NELSON COLON V. MARTIN TRANSPORT 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 22, 2011

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

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

Clerk.

Holly K. O. Sparrow

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 11, 2011

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 **S11C1143**.

NELSON COLON v. MARTIN TRANSPORT et al.

Clerk, Supreme Court of Georgia

APR 13 2011

APR 13 2011

Case No. A11D0235
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. S11C1143 Atlanta, September 06, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

NELSON COLON v. MARTIN TRANSPORT 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0235

RECEIVED IN OFFICE
2011 SEP 22 PM 12:37
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 21, 2011

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.

Sue C. Britton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, FEB 18 2011

The Court of Appeals hereby passes the following order:

A11D0236. ESSEX v. STRANEY.

John G. Essex seeks leave to appeal a contempt order entered on December 28, 2010. The trial court found Essex in "Willful Contempt of the Order of this Court" for failing to make certain payments to respondent Lynne C. Straney. The application shows that the obligations which Essex failed to fulfill were incorporated into his judgment of divorce from Straney.

The Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6). "[A]n appeal from a judgment in a contempt action seeking to enforce any portion of the divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over divorce and alimony cases." (Punctuation omitted.) *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Because the underlying subject matter of this application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

LC# 10SUCV1409

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 18 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 20, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0237

ROBIN JEAN WELLMAN-FISHER V. ANDREW SOMES FISHER

ET AL

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

99020

10GR054895

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 20 2011

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

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA
Case No. S11D0870
A11D0237

Atlanta March 14, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ROBIN JEAN WELLMAN-FISHER v. ANDRES SOMES FISHER.

From the State Court of Fulton County.

It appears that the above-styled application for discretionary appeal seeks review of a judgment in a garnishment action in which the finality of a divorce decree was at issue. The Court of Appeals transferred the application based upon this Court's jurisdiction pursuant to Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6) over divorce and alimony cases. However, a garnishment action is not a divorce or alimony case within the meaning of that constitutional provision, even if the validity or finality of a divorce decree is at issue. See Lege v. United States, 236 Ga. 138 (1976); Thompson v. Central of Ga. R. Co., 214 Ga. 130 (1958). Accordingly, the application is hereby returned to the Court of Appeals.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
The minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto
Affixed the day and year last above written.

Sui C. Fulton , Chief Deputy Clerk

A11D0237

S11D0870.
ROBIN JEAN WELLMAN-FISHER v. ANDRES SOMES FISHER

TO: Holly Sparrow, Clerk

FROM: Tee Barnes, Clerk

RE: Case No. S11D0870

Date of Transfer 3/29/2011

RECEIVED
MAR 30 2011
COURT OF APPEALS
OF GEORGIA

Briefs and Motions filed before transfer

Filing Date	Description
2/23/2011	Application for Appeal (Transferred from Court of Appeals)
2/23/2011	Response to Application for Appeal (Transferred)
2/23/2011	Appellant's Reply in Support of Application for Appeal (Transferred)
2/23/2011	Exhibits to Respondent's Response to Applicant's Petition

RECEIVED IN OFFICE
2011 MAR 30 PM 3:09
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS GA

~~**Briefs and Motions received after transfer**~~

~~Date of Delivery~~	~~Description~~	~~Postal/Carrier Info Included~~
3/7/2011	Response to Application for Appeal	
3/7/2011	Index of Exhibits and Exhibits	
3/15/2011	Received after Judgment entered Supplemental Reply in Support of Application	Filed in Office

Reinstatement

ached for filing fees paid to Supreme Court.

aid. _____

Ltr if you can print SC transfer & put in COA appendix book

Court of Appeals
of the State of Georgia

ATLANTA, FEB 22 2011

The Court of Appeals hereby passes the following order:

A11D0237. WELLMAN-FISHER v. FISHER.

Robin Jean Wellman-Fisher and Andrew Somes Fisher divorced, and a final decree was entered in September 2008. Wellman-Fisher subsequently filed a garnishment action to obtain interest on the judgment. Fisher traversed the garnishment, asserting that the divorce action was not final as no civil case disposition form had been filed in accordance with OCGA § 9-11-58 (b). The trial court granted the traverse on this basis. After funds were disbursed, Wellman-Fisher filed an application for discretionary appeal in this Court. The sole issue presented is whether a filing under OCGA § 9-11-58 (b) is required to render a divorce decree final.

The Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008) (appeal from judgment in contempt action seeking to enforce any divorce decree provision not involving child custody falls within the Supreme Court's jurisdiction). Although garnishment actions are generally within this Court's jurisdiction, this action is inextricably entwined with the divorce action and whether the divorce decree is final. Under these circumstances, it appears jurisdiction may lie in the Supreme Court. It is well-settled that the ultimate responsibility for determining appellate jurisdiction is vested in the Supreme Court of Georgia. See *Saxton v. Coastal Dialysis &c.*, 267 Ga. 177, 178 (476 SE2d 587) (1996). Accordingly, this appeal is hereby TRANSFERRED to the Supreme Court for disposition.

LC# 10GR054895

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 22 2011

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

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

Kelly K. A. Loomer, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0238

IN THE INTEREST OF: T. A. K., M. A. K., T. A. F., B. J. W., B. J. F., B. J. F., AND B. W., CHILDREN (MOTHER)

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

98020

10CV2099

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 16 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0239

ANGEL CACERES V. D.W. TENCH D/B/A TENCH DW GRADING & HAULING

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

97020

09A05585

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 25 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAY 26 2011

The Court of Appeals hereby passes the following order:

A11D0239. CACERES v. D. W. TENCH d/b/a TENCH DW GRADING & HAULING.

Following our denial of Gonzalez & Associates, P. C.'s application for discretionary review, Gonzalez filed a motion for reconsideration of our decision. D. W. Tench d/b/a Tench DW Grading & Hauling moved for frivolous appeal damages on the grounds that Gonzalez's motion for reconsideration was frivolous. Gonzalez subsequently filed its Motion for Permission to Withdraw Appeal asserting that the parties reached a mutual settlement after the filing of the motion for reconsideration.

Upon consideration of the foregoing, Gonzalez's motion for reconsideration is DENIED. Tench's motion for frivolous appeal damages is DENIED. Gonzalez's motion for permission to withdraw is denied as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 26 2011

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

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

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0240

VIJAY P. KUNDUR V. THE STATE

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

96020

2001CR11957

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 25 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 02, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0241

GEORGIA DEPARTMENT OF TRANSPORTATION ET AL V.

WHITEWAY NEON-AD, A DIVISION OF LEVIN INDUSTRIES

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

90021

2010CV188698

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 2 2011

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

Kelly K. O. Spanos

Court of Appeals of the State of Georgia

ATLANTA, FEB 24 2011

The Court of Appeals hereby passes the following order:

A11D0242. MELTON v. MELTON.

Petitioner Rebecca S. Melton seeks leave to appeal her judgment of divorce from respondent John D. Melton. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases. See Ga. Const. 1983, Art VI, Sec. VI, Par. III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). As the subject matter of the application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

LC# 2010V064

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 24 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0243

IN THE INTEREST OF: E. M. M., G. M. M., AND J. R. W., CHILDREN (MOTHER)

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

71021

1001164

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 28 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, FEB 23 2011

The Court of Appeals hereby passes the following order:

A11D0244. Michael R. Brookerd v. Michael L. Thurmond et al.

On December 28, 2010, the superior court entered an order affirming a decision of the Georgia Department of Labor's Board of Review to disqualify Michael R. Brookerd from receiving unemployment compensation benefits. On January 28, 2011, Brookerd filed an application for discretionary appeal in this Court. 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). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Brookerd filed this application 31 days after entry of the order he seeks to appeal. The application is untimely and, accordingly, is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 23 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

LC# 10V270

Kelly K. D. Loarca , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, MAR - 3 2011

The Court of Appeals hereby passes the following order:

A11D0245. MAGDANGAL v. HENDRIX.

Astrid Magdangal gave birth to a son in April 2007. William Hendrix, the child's biological father, subsequently petitioned to legitimate the child and to establish custodial rights. Following a hearing, the trial court granted the legitimation petition, awarded Hendrix joint legal custody, and set up a visitation schedule. Magdangal now seeks discretionary review of that ruling.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). The order in this case established legal custody over the child and granted Hendrix visitation, which "is considered a custody issue." *Daniels v. Barnes*, 289 Ga. App. 897, 899 n. 1 (658 SE2d 472) (2008); see also OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue."). Thus, the order may be appealed directly.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Magdangal shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already

filed a notice of appeal, she need not file a second notice. The clerk of the trial 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, MAR - 3 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. B. Loanoa, *Clerk.*

LC# 101377748

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 16, 2011

The Court of Appeals passed the following order

Case No. A11D0246

CEDRIC BERNARD PICKARD 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 MAR 16, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

MAR - 8 2011

ATLANTA,

The Court of Appeals hereby passes the following order:

A11D0247. Bridget Roxanne Jackman et al. v. LaSalle Bank National Association.

The trial court entered a writ of possession in favor of LaSalle Bank N. A. for premises occupied by Bridget Roxanne Jackman and her husband. Jackman appealed, but we affirmed the trial court. *Jackman v. LaSalle Bank, N. A.*, 299 Ga. App. 894 (683 SE2d 925) (2009). Jackman then filed a motion to set aside the writ of possession, as well as another order directing her to pay rent into the registry of the court. In an order entered on June 30, 2010, the court denied Jackman's motion to set aside. Jackman directly appealed that order (A11A0201), but we dismissed the appeal because the denial of a motion to set aside under OCGA § 9-11-60 (d) must be appealed through the discretionary appeal procedures of OCGA § 5-6-35. Jackson then filed the instant application for discretionary appeal from the June 30, 2010 order denying her motion to set aside.[1]

To be valid, 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). Because Jackman filed this application 224 days after entry of the order she seeks to appeal, her application is untimely. The application is therefore DISMISSED for lack of jurisdiction.

---

[1] Jackson's application also mentions subsequent writs of possession entered more recently by the trial court, but as she has not attached copies of those writs, they cannot be considered the subject of this application.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR - 8 2011

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0248

JOHN DOUGLAS ELDER V. THE STATE

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

95021

932772

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 28 2011

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

Kelly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAR 14 2011

The Court of Appeals hereby passes the following order:

A11D0249. MOORE v. STATE OF GEORGIA SEXUAL OFFENDER REGISTRATION REVIEW BOARD.

Having reviewed and considered the application for discretionary appeal filed by Joel Pannal Moore, the application is hereby DENIED on the merits. Thus, the motion to dismiss filed by the State of Georgia Sexual Offender Registration and Review Board is also DENIED. We also dismiss as MOOT both Moore's Motion to Strike Respondent's Motion to Dismiss and the Motion to Dismiss Applicant's Motion to Strike filed by the State of Georgia Sexual Offender Registration and Review Board.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 14 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 30, 2011

The Court of Appeals passed the following order

Case No. A11D0249

JOEL PANNAL MOORE V. STATE OF GEORGIA SEXUAL OFFENDER REGISTRATION REVIEW BOARD

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, 2011

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

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

Clerk.

Holly K. O. Sparrow

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 16, 2011

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 **S11C1186**.

JOEL PANNAL MOORE v. STATE OF GEORGIA SEXUAL OFFENDER REGISTRATION AND REVIEW BOARD

Clerk, Supreme Court of Georgia

APR 20 2011

Case No. A11D0249
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. S11C1186 Atlanta, November 07, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOEL PANNAL MOORE v. STATE OF GEORGIA SEXUAL OFFENDER REGISTRATION AND REVIEW BOARD

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 writ denied.

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

Court of Appeals Case No.
A11D0249

RECEIVED IN OFFICE
2011 DEC -1 AM 11:58
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta November 30, 2011

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.

Sui C. Britton , Chief Deputy Clerk

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

February 8, 2012

RECEIVED IN OFFICE
2012 FEB 14 AM 11:18
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Clerk
Court of Appeals of Georgia
433 State Judicial Building
Atlanta, GA 30334

Re: Joel Pannal Moore
v. State of Georgia Sex Offender Registration and Review Board
No. 11-973
(Your No. A11D0249)

Dear Clerk:

The petition for a writ of certiorari in the above entitled case was filed on February 6, 2012 and placed on the docket February 8, 2012 as No. 11-973.

Sincerely,

William K. Suter, Clerk

by

Redmond K. Barnes
Case Analyst

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

March 19, 2012

Clerk
Court of Appeals of Georgia
433 State Judicial Building
Atlanta, GA 30334

Re: Joel Pannal Moore
v. State of Georgia Sexual Offender Registration Review Board
No. 11-973
(Your No. A11D0249)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

William K. Suter

William K. Suter, Clerk

RECEIVED IN OFFICE
2012 MAR 21 PM 1:48
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0250

IN THE INTEREST OF: L. B., S. B., K. B., J. D., AND C. D., CHILDREN (FATHER)

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

98021

10CV3123

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR - 4 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 09, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0251

IN THE INTEREST OF: B. W., B. F., B. F., AND B. W., CHILDREN (FATHER)

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

98022

10CV2099

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 9 2011

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

Kelly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 03, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0252

IN THE INTEREST OF: M. A. G., A. F. L., CHILDREN (MOTHER)

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

97021

1000158

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 3 2011

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, MAR 11 2011

The Court of Appeals hereby passes the following order:

A11D0253. SMITH v. THE STATE.

Emory Christopher Smith entered a negotiated plea to multiple counts. He subsequently filed a "Motion for New Trial Due to a Void Judgment." The trial court treated the motion as one to withdraw a guilty plea, but dismissed the motion on the basis that it was not timely filed. Smith then filed this application for discretionary appeal.

The dismissal of a motion to withdraw a guilty plea may be appealed directly. See, e. g., *McKiernan v. State*, 286 Ga. 756 (692 SE2d 340) (2010). Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). Here, however, the order may not be directly appealed. Smith's sole argument is that the judgment against him is void. A motion seeking to challenge an allegedly void judgment of conviction "is not one of the established procedures for challenging the validity of a judgment in a criminal case. Because [Smith] was not authorized to seek relief from his criminal convictions pursuant to a motion to vacate or correct a void conviction, there is nothing for this Court to review and his [application for discretionary] appeal is subject to dismissal." (Citations omitted.) *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). See also *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009) (overruling *Chester v. State*, 284 Ga. 162, 162-163 (2) (664 SE2d 220) (2008)); *Matherlee v. State*, 303 Ga. App. 765 (694 SE2d 665) (2010). This application is therefore DISMISSED for lack of jurisdiction.

LC# 10CR30

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR 11 2011

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0254

HOWE & ASSOCIATES V. THE GARRETT GROUP INTERNATIONAL CORPORATION

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

90022

2009SC2166

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 14 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 22, 2011

The Court of Appeals passed the following order

Case No. A11D0254

HOWE & ASSOCIATES V. THE GARRETT GROUP INTERNATIONAL CORPORATION

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

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 22, 2011

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

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

Clerk.

Holly K. O. Sparrow

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 10, 2011

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 **S11C1329**.

HOWE & ASSOCIATES v. THE GARRETT GROUP INTERNATIONAL

Clerk, Supreme Court of Georgia

MAY 12 2011

Case No. A11D0254
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. S11C1329 Atlanta, October 03, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HOWE & ASSOCIATES v. THE GARRETT GROUP INTERNATIONAL

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0254

RECEIVED IN OFFICE
2011 OCT 19 AM 10:29
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 18, 2011

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.

Lui C. Britton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 09, 2011

The Court of Appeals hereby passes thefollowing order:

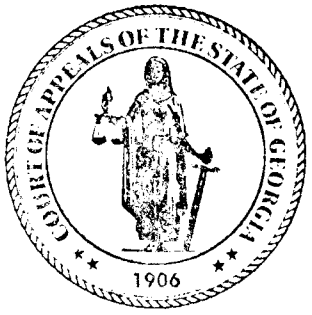
APPLICATION NO. A11D0255

COLEY FORRESTER V. THE STATE

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

93022

2001CR83



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 9 2011

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

Holly K. O. Sparrow

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 29, 2011

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 **S11C1063**.

COLEY FORRESTER v. THE STATE

Clerk, Supreme Court of Georgia

MAR 31 2011

Case No. A11D0255
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. S11C1063 Atlanta, June 27, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

COLEY FORRESTER 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0255

RECEIVED IN OFFICE
2011 JUL 15 AM 11:41
CLERK, COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta July 14, 2011

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.

Lui C. Britton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S11C1063

Atlanta, June 27, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

COLEY FORRESTER v. THE STATE

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

Court of Appeals Case No. A11D0255

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

JUL 14 2011

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

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

Thiia A Bamm, Clerk

Court of Appeals
of the State of Georgia

ATLANTA, MAR 10 2011

The Court of Appeals hereby passes the following order:

A11D0256. MIMS v. THE STATE.

Reginald Dekeith Mims seeks discretionary review of the trial court's November 10, 2010 order denying his " pro se Motion for Reconsideration based upon newly discovered evidence."[1] We, however, lack jurisdiction.

In violation of this Court's rules, Mims has not included a copy of the motion which led to the trial court's ruling. See Court of Appeals Rule 31 (b). Thus, we are hampered in our ability to ascertain the basis for the trial court's ruling. It appears from the order, however, that the trial court denied Mims' extraordinary motion for new trial on September 8, 2010. Mims sought reconsideration of the ruling, which the trial court denied on November 10, 2010. Mims seeks discretionary review of the latter ruling.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. See OCGA § 5-6-35 (d). Here, the order Mims truly seeks to appeal is the September 8, 2010 order. Thus, Mims was required to file his application within 30 days of that ruling. Although Mims sought reconsideration of the September 8 order, a motion for reconsideration does not extend the time for filing. See *Cheeley-Towns v. Rapid Group, Inc.*, 212 Ga. App. 183 (441 SE2d 452) (1994). Moreover, an order denying a motion for reconsideration is not appealable

---

[1] Mims filed his application with the Supreme Court, seeking to challenge both the November 10, 2010 order as well as a second order purporting to deny a mandamus action. Because the mandamus order was not a file-stamped copy, the Supreme Court found it could not consider the order, and it transferred the matter to this Court to address the November 10, 2010 order.

in its own right. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). We thus lack authority to consider Mims' application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 10 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAR 10 2011

The Court of Appeals hereby passes the following order:

A11D0257. Jonathan Whitaker v. The State.

Jonathan Whitaker was convicted of child molestation and sexual battery, and we affirmed his convictions on appeal. *Whitaker v. State*, 293 Ga. App. 427 (667 SE2d 202) (2008). He later filed a motion to correct a void sentence, arguing among other things that his sentence is void because his convictions merged. In an order entered December 1, 2010, the trial court denied the motion. Whitaker filed an application for discretionary appeal in the Supreme Court, which transferred it here upon finding that it lacked subject matter jurisdiction. We were unable to accept the application, however, because it did not contain a certificate of service, a filing fee, or a pauper's affidavit. See Court of Appeals Rules 6 & 31 (d). The application was thus returned to Whitaker, who resubmitted it with the missing documents on February 10, 2011. The application was docketed that day. 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). We lack jurisdiction to consider an untimely application. *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998). Because Whitaker's application was filed 71 days after entry of the trial court's order, it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR 10 2011

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAR - 9 2011

The Court of Appeals hereby passes the following order:

A11D0258. SUNDAYN N. UDOINYION v. MICHELIN NORTH AMERICA INC.

Plaintiff Sunday Udoinyion filed this application for discretionary appeal, asserting that he is entitled to an appeal because the trial court failed to rule on his cross motion for summary judgment. Included in Udoinyion's application materials are several rule nisi orders, which address defendant's motion to dismiss appeal. Udoinyion supplemented his application to include the trial court's July 29, 2010 order granting summary judgment to defendant Michelin North America Inc. as the order from which he appeals herein. But Udoinyion filed an application for discretionary appeal from that order in a separate appeal, which was granted. It appears from the application materials that Udoinyion has since filed his notice of appeal, and that Michelin North America Inc. filed a motion to dismiss the appeal, which is currently pending in the trial court.

A notice of appeal must be filed within 30 days after entry of an appealable order to confer jurisdiction upon this court. OCGA § 5-6-38 (a). Here, Udoinyion has failed to identify an appealable order. His failure to do so deprives this Court of jurisdiction over the appeal, which is hereby DISMISSED as premature.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR - 9 2011

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

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

Kelly K. A Spence, *Clerk.*

Logout

Case Management

General Docket | Lower Court | Party/Attorney | Filings | Judgment | Certiorari | Remittitur | Notes | Case History

Edit **Filings and Actions** **Transfers** **Mailing Labels**

Tracking

Return to Search

Case Style	SUNDAY N. UDOINYION v. MICHELIN NORTH AMERICA INC
Short Style	SUNDAY UDOINYION V. MICHELIN NORTH
Case Number	A11D0258

Assigned Judge: P. J. Charles B. Mikell **Assigned Division:** 1 **Short Number:** 92-022 **Assignment Type:** System

Panel: J. Michael P. Boggs, P. J. Charles B. Mikell, J. Stephen Louis A. Dillard **Opinion Status:** None

Docket Date: 02/17/2011 **Term:** A11 **Docket Calendar:** 0611 **Status:** F **Notes:** No

Filings and Actions | Court Initiated Actions

View Rejected Filings

03-016 - STAMPED FILED ORDER/CIR FILED
Filing Date and Time: 02/24/2011 12:00 AM EST **Category:** Application **Party Type:** --
Reference Number: 85917 **Filing Method:** Paper Filed Mark as Docketed in Error
Add Filing Document

03-007 - RESPONSE TO APPLICATION
Filing Date and Time: 02/28/2011 12:00 AM EST **Category:** Application **Party Type:** --
Reference Number: 85975 **Filing Method:** Paper Filed Mark as Docketed in Error
Add Filing Document

03-043 - REPLY TO RESPONSE/APPLICATION/NT
Filing Date and Time: 03/08/2011 12:00 AM EST **Category:** Application **Party Type:** --
Reference Number: 86140 **Filing Method:** Paper Filed Mark as Docketed in Error
Add Filing Document

03-042 - SUPPLEMENTAL REPLY TO APPLICATION
Filing Date and Time: 03/10/2011 12:00 AM EST **Category:** Retired **Party Type:** --
Reference Number: 86216 **Filing Method:** Paper Filed Mark as Docketed in Error
Add Filing Document

04-033 - MFR/NT
Filing Date and Time: 03/18/2011 12:00 AM EDT **Category:** Motion for Reconsideration **Party Type:** --
Reference Number: 127176 **Filing Method:** Paper Filed
Primary Action: 05-038 - MFR/DENIED **Order Date:** 05/24/2011
Add Order Document Vacate Order
Add Filing Document

04-515 - RESPONSE TO MFR
Filing Date and Time: 03/24/2011 12:00 AM EDT **Category:** Motion for Reconsideration **Party Type:** --
Reference Number: 127227 **Filing Method:** Paper Filed Mark as Docketed in Error
Add Filing Document

04-596 - REPLY TO RESPONSE
Filing Date and Time: 03/28/2011 12:00 AM EDT **Category:** Motion **Party Type:** --
Reference Number: 127259 **Filing Method:** Paper Filed Mark as Docketed in Error
Add Filing Document

Return to Search

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Court of Appeals
of the State of Georgia

ATLANTA, MARCH 08, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0259

IN THE INTEREST OF: K. T., AND M. T., CHILDREN (FATHER)

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

94022

1001618

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR - 8 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0260

TONI K. MCCAULEY V. MARK BUTLER

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.

91022

10CV8906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 11 2011

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

Sally K. O. Spence

Court of Appeals of the State of Georgia

ATLANTA, MAR 10 2011

The Court of Appeals hereby passes the following order:

A11D0261. ROBERT SEASE et al. v. RES-GA MILLS COVE, LLC.

When Robert Sease filed this application for discretionary appeal, he included a copy of the trial court's order, but it was not a stamped "filed" copy as required by Court of Appeals Rule 31 (e). A stamped "filed" copy is required in order for this Court to ascertain that the application was filed within 30 days, which is a jurisdictional prerequisite. See OCGA § 5-6-35 (d) (application must be filed within 30 days of the date of the order appealed); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (OCGA § 5-6-35 requirements are jurisdictional). On February 22, 2011, this Court ordered Sease to supplement his application within ten days with a stamped "filed" copy of the order to be appealed. We noted that failure to comply with this directive would result in dismissal of the application. More than ten days have passed since we issued the February 22, 2011 order, and Sease has not submitted a stamped "filed" copy of the trial court's order. Accordingly, his application is hereby *DISMISSED.*

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 10 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAR - 8 2011

The Court of Appeals hereby passes the following order:

A11D0262. IN THE INTEREST OF: R. J. C. D., N. S. D., AND Z. S. D., CHILDREN (MOTHER).

The mother of R. J. C. D., N. S. D., and Z. S. D. seeks to appeal the January 19, 2011 order terminating her parental rights. The mother filed her application for discretionary appeal on February 22, 2011. To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, the mother filed her application 34 days after the juvenile court entered its termination order. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this untimely application for appeal is *DISMISSED* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR - 8 2011

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

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

Kelly K. A. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAR 17 2011

The Court of Appeals hereby passes the following order:

A11D0264. IN THE INTEREST OF J. H., A CHILD.

Sandy and J. C. Henderson filed this application for discretionary appeal from an order finding them to be in criminal contempt. From the materials the Hendersons have included with the discretionary application, it appears that no provision of OCGA § 5-6-35 (a) is applicable to this case. Rather, the order of contempt is directly appealable. OCGA § 5-6-34 (a) (2).

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby ***GRANTED***. The Hendersons shall have 10 days from the date of this order to file a notice of appeal with the juvenile court. If they have already filed a notice of appeal, they need not file a second notice. 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# 10710J0918

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 17 2011

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 23, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0265

FRANK JACOBS V. THE STATE

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

90023

09CR08074

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 23 2011

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 22, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0266

ANGELA HOWARD V. PEACHBELTH HEALTH & REHABILITAION CENTER, 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.

93023

2010V101631

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 22 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 23, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0267

DOUGLAS ASPHALT & PAVING, INC ET AL V. JASON MOORE

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

71023

11CV26

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 23 2011

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0268

MELVIN HILL V. THE STATE

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

70023

2009CR146

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 21 2011

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

Kelly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0269

RONNIE DAVID ODOM 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.

92023

99CR439

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 16 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 22, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0270

MATTHEW W. HOWARD V. GMAC MORTGAGE, LLC

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

94023

10CV1974

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 22 2011

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, MAR 15 2011

The Court of Appeals hereby passes the following order:

A11D0271. WILLIAMS v. THE STATE.

Jesse L. Williams seeks discretionary review of the trial court's order denying his motion to vacate an allegedly void criminal conviction. Specifically, he challenges the validity of the arrest warrant and the indictment against him.[1]

A motion seeking to challenge an allegedly void judgment of conviction "is not one of the established procedures for challenging the validity of a judgment in a criminal case. Because [Williams] was not authorized to seek relief from his criminal convictions pursuant to a motion to vacate or correct a void conviction, there is nothing for this Court to review and his [application for discretionary] appeal is subject to dismissal." (Citations omitted.) *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). See also *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009) [overruling *Chester v. State*, 284 Ga. 162, 162-163 (2) (664 SE2d 220) (2008)]; *Matherlee v. State*, 303 Ga. App. 765 (694 SE2d 665) (2010). This application is therefore DISMISSED for lack of jurisdiction.

---

[1] Williams has already challenged his conviction by direct appeal to this Court, and the judgment was affirmed in an unpublished opinion. See *Williams v. State*, (Case Number A01A2068, decided March 12, 2002).

LC#99CR4909

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR 15 2011

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

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

Holly K. D. Lanier, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 17, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0272

CHRISTOPHER ALAN FRENCH V. KEVIN L. DILLESHAW

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.

95023

2010CV0928

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 17 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAR 17 2011

The Court of Appeals hereby passes the following order:

A11D0273. FLORINE ABRAMS v. PICCADILLY RESTAURANTS, INC.

Florine Abrams seeks discretionary review of the trial court's order granting summary judgment to Piccadilly Restaurants, Inc. An order granting summary judgment is subject to direct appeal. OCGA § 9-11-56 (h); see *Culwell v. Lomas & Nettleton Company*, 242 Ga. 242, 243 (248 SE2d 641) (1978). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. As it does not appear that Abrams has filed a notice of appeal, this application is hereby GRANTED. Abrams 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# 2009CV17638

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 17 2011

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

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

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 17, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0274

IN THE INTEREST OF: C. R. G., H. R. G., G. T. G., AND M. R. G., CHILDREN (MOTHER)

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

98023

1000039

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 17 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAR 23 2011

The Court of Appeals hereby passes the following order:

A11D0275. Fred L. Murray, Jr. v. Marcea J. Murray.

Fred L. Murray sought to file an *in forma pauperis* complaint against his sister, Marcea J. Murray, alleging defamation, wrongful eviction, and other claims. The trial court denied the filing under OCGA § 9-15-2 (d) after finding that the proposed complaint showed a complete absence of any justiciable issue of law or fact. Murray 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 Murray's application for appeal is hereby *GRANTED* as required under OCGA § 5-6-35 (j). Murray shall have ten days from the date of this order to file a notice of appeal with the trial 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 23 2011

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, APR - 4 2011

The Court of Appeals hereby passes the following order:

A11D0276. CLAUDIA MORALES v. FEDERAL NATIONAL MORTGAGE ASSOCIATION.

This application arises from a dispossessory action brought by Federal National Mortgage Association against Claudia Morales in the Magistrate Court of Gwinnett County. A consent judgment was entered on December 29, 2010. Morales filed a notice of appeal to superior court, but the magistrate court dismissed her appeal, noting that Morales was required to file a motion to set aside the consent judgment before filing an appeal. Morales then filed a motion to set aside the consent judgment, but the magistrate court denied the motion. Morales filed a second notice of appeal to superior court, but the magistrate court dismissed that notice of appeal, again directing that Morales file a motion to set aside. Morales filed a third notice of appeal to superior court, which the trial court dismissed in an order entered on February 23, 2011. On March 4, 2011, Morales filed this application for discretionary review.

Generally, an application for discretionary appeal shall be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal generally controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). The underlying subject matter of this discretionary application is to seek to set aside a consent judgment entered in a dispossessory action. OCGA § 44-7-56, pertaining to dispossessory actions, states that "[a]ny judgment by the trial court shall be appealable pursuant to Chapters 2, 3, 6, and 7 of Title 5, provided that any such appeal shall be filed within seven days of the date such judgment was entered."

Because Morales did not file her application for discretionary appeal within

seven days of the date of entry of the order dismissing her notice of appeal, this court lacks appellate jurisdiction over this application, and it is hereby DISMISSED.

LC#10M43680

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, APR - 4 2011

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0277

TERRY EUGENE SHEPPARD 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.

90024

092793

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 24 2011

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0278

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

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

93024

075101738

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 24 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAR 16 2011

The Court of Appeals hereby passes the following order:

A11D0279. NIKKI HARDY D/B/A LASHAY'S ACADEMY v. MONIKA KING

Nikki Hardy d/b/a Lashay's Academy filed this application for discretionary appeal seeking review of the superior court's order affirming the award of the Appellate Division of the State Board of Workers' Compensation. The superior court held a hearing on February 4, 2011, and entered its order affirming the award on the same day.

To be valid, an application for discretionary appeal must be filed within thirty days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Hardy filed her application on March 8, 2011, thirty-two days after the award was affirmed. The application is untimely and is therefore DISMISSED for lack of jurisdiction. 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
Clerk's Office, Atlanta, MAR 16 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. D. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, JUN 24 2011

The Court of Appeals hereby passes the following order:

A11D0279. NIKKI HARDY D/B/A LASHAY'S ACADEMY v. MONIKA KING.

On March 16, 2011, this Court dismissed Nikki Hardy's application for discretionary appeal on the ground that it was untimely. Having determined that the application was timely filed, this Court has jurisdiction to consider the application.

Hardy'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 24 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

MAR 16 2011

ATLANTA,

The Court of Appeals hereby passes the following order:

A11D0280. CANO v. FEDERAL NATIONAL MORTGAGE ASSOCIATION.

Claudia P. Cano seeks discretionary review of a magistrate court order dismissing an appeal. We lack jurisdiction to consider Cano's application. "The only avenue of appeal available from [a] magistrate court judgment is provided by OCGA § 15-10-41 (b) (1), which allows for a de novo appeal to the state or superior court." *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). In other words, a party aggrieved by a magistrate court ruling must first seek review in the state or superior court. Cano failed to follow this procedure, instead filing an application for discretionary appeal to this Court. Because we can only address magistrate court matters that have been reviewed by the state or superior court, we have no authority to consider her application. See id.; *Westwind Corp. v. Washington Federal Savings & Loan Assn.*, 195 Ga. App. 411 (1) (393 SE2d 479) (1990). Accordingly, the application is hereby *DISMISSED* for lack of jurisdiction.

LC# 10M35845

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 16 2011

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

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

Kelly K. O. Spence, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAR 30 2011

The Court of Appeals hereby passes the following order:

A11D0281. Angela M. Wright v. Due West Animal Clinic, P.C.

Angela M. Wright seeks discretionary review of a post-judgment order that she pay Due West Animal Clinic, P.C. attorney fees under OCGA § 9-15-14. The underlying dismissal of Wright's action against Due West is on appeal as Case No. A11A0210. Under *Rolleston v. Huie*, 198 Ga. App. 49 (400 SE2d 349) (1990), a post-judgment award of attorney fees may be appealed directly without regard to the discretionary appeal procedures where there is a pending direct appeal taken from the underlying judgment. Thus, Wright was entitled to bring this appeal under OCGA § 5-6-34 (a).

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. As it does not appear that Wright has filed a notice of appeal, this application is hereby GRANTED. Wright shall have ten days from the date of this order to file a notice of appeal with the trial court. The trial court is instructed to include a copy of this order in the record transmitted to this Court.

LC# 0918109

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 30 2011

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

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

Kelly K. A. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 01, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0282
IN THE INTEREST OF: M. T. F., 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.

92024
10CV1984

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR - 1 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 29, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0283

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

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

91024

JUV100306

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 29 2011

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

Holly K. O. Loanoa

Court of Appeals of the State of Georgia

ATLANTA, MAR 30 2011

The Court of Appeals hereby passes the following order:

A11D0284. JAY PHILLIP GRUND v. TRACY ANN SPRINKLE.

Jay Phillip Grund seeks discretionary review of the trial court's award of attorney fees to his ex-wife, Tracy Ann Sprinkle, in the parties' litigation over child custody and child support. The trial court characterized its award as "support" for Sprinkle. 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 light of the trial court's characterization of its fee award as a form of alimony, this application is *TRANSFERRED* to the Supreme Court of Georgia.

LC#'s 0511056, 0812525

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 30 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 06, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0285

HENRIETTA TURNER ET AL V. STEPHENS, MDS, LP ET AL

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

99024

2010CV0685

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR - 6 2011

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

Kelly K. A. Spencer

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 26, 2011

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 **S11C1239**.

HENRIETTA TURNER et al. v. STEPHENS, MDS, LP et al.

Clerk, Supreme Court of Georgia

Court order
Sent App
Response
APR 28 2011

Case No. A11D0285
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. S11C1239 Atlanta, September 12, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HENRIETTA TURNER et al. v. STEPHENS, MDS, LP 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0285

RECEIVED IN OFFICE
2011 OCT 19 AM 10:29
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 18, 2011

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.

Sui C. Britton , 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: April 07, 2011

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 **S11C1127**.

JEROME CLARKE v. SHIRLEY EVANS

Clerk, Supreme Court of Georgia

Case No. A11D0286
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

APR 11 2011

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0286

JEROME CLARK V. SHIRLEY EVANS ET AL

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

98024

2010CV194575

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 28 2011

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

Holly K. A. Lamar *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C1127 Atlanta, July 11, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JEROME CLARKE v. SHIRLEY EVANS 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0286

RECEIVED IN OFFICE
2011 AUG 11 PM 4:08
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta August 10, 2011

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.

Lisa C. Hilton, Chief Deputy Clerk

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

November 18, 2011

A11D0286

RECEIVED IN OFFICE
2011 NOV 21 AM 10: 38
CLERK COURT OF APPEALS GA

Clerk
Court of Appeals of Georgia
433 State Judicial Building
Atlanta, GA 30334

Re: Jerome Clarke
v. Shirley Evans, et al.
No. 11-7467
(Your No. 11-0286)

Dear Clerk:

The petition for a writ of certiorari in the above entitled case was filed on September 23, 2011 and placed on the docket November 18, 2011 as No. 11-7467.

Sincerely,

William K. Suter, Clerk

by

Erik Fossum
Case Analyst

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0287

IN THE INTEREST OF: L. T. M., AND M. M., CHILDREN (MOTHER)

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

97024

10CV3928

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2011

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0288

FOXWORTHY, INC., ET AL V. 4 ATLANTA PROPERTY

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.

96024

2008CV160607

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR - 7 2011

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

Kelly K. O. Lamar

Court of Appeals of the State of Georgia

ATLANTA, APR - 7 2011

The Court of Appeals hereby passes the following order:

A11D0289. GRADE INC v. STATE OF GEORGIA et al.

On January 5, 2011, the trial court entered an order denying defendant Grade Inc.'s motion to disqualify Special Assistant District Attorneys for the State. Grade Inc. seeks discretionary review of this order.[1] We lack jurisdiction.

The order disqualifying counsel is an interlocutory order.[2] See *Cherry v. Coast House, Ltd.*, 257 Ga. 403, 404 (2) (359 SE2d 904) (1987); *Ewing Holding Corp. v. Egan-Stanley Investments*, 154 Ga. App. 493, 495-496 (1) (268 SE2d 733) (1980). Thus, in order to obtain appellate review, Grade Inc. was required to follow the interlocutory appeal procedure set forth in OCGA § 5-6-34 (b) and to obtain a certificate of immediate review. Its failure to do so deprives us of jurisdiction to consider the application for appeal.

We note, however, that Grade Inc. requested a certificate of immediate review, which the trial court denied. Generally, an appellate court will not review the discretion of the trial court to grant or refuse a certificate for immediate review of interlocutory rulings. See *Houser v. State*, 234 Ga. 209 (214 SE2d 893) (1975). Nonetheless, the Supreme Court has crafted a limited exception to this requirement.

---

[1] Grade Inc. filed the application in the Supreme Court, which transferred the matter to this Court.

[2] Grade Inc. suggests that we treat the trial court's order as a collateral order subject to direct appeal. See *Ewing Holding Corp.*, supra. We decline to do so. See, e. g., *Richardson-Merrell, Inc. v. Koller*, 472 US 424, 426 (105 SC 2757, 86 LE2d 340) (1985) (holding an order disqualifying counsel in a civil case did not qualify for immediate appeal under the collateral order doctrine).

See *Waldrip v. Head*, 272 Ga. 572, 575 (532 SE2d 380) (2000). Specifically, the Supreme Court ruled that, "on rare occasions" it will directly review an otherwise interlocutory order. See id. Such disregard of the interlocutory procedure, however, is reserved for "those exceptional cases that involve an issue of great concern, gravity, and importance to the public and no timely opportunity for appellate review." Id. at 575.

Here, Grade Inc. seeks the disqualification of attorneys, which is a decision resting within the sound discretion of the trial judge. See *Life Care Centers of America v. Smith*, 298 Ga. App. 739, 745 (3) (681 SE2d 182) (2009). Under these circumstances, this is not one of the exceptional cases in which disregard of the interlocutory procedure is warranted. Accordingly, Grade Inc.'s application for discretionary appeal is hereby DISMISSED.

LC#2010CV2169

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR - 7 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 29, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0290

ROBERTO BAEZ V. GEORGIA DEPARTMENT OF CORRECTIONS

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

93025

10CV44600

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 29 2011

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

Holly K. O. Sparrow

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 27, 2011

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 **S11C1255**.

ROBERTO BAEZ v. GEORGIA DEPARTMENT OF CORRECTIONS

Clerk, Supreme Court of Georgia

APPR 29 2011 - sent supp - called Enumeration of Error

Case No. A11D0290
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

- Response
- Reply
- Amended Reply

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C1255 Atlanta, September 12, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ROBERTO BAEZ v. GEORGIA DEPARTMENT OF CORRECTIONS

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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A11D0290

RECEIVED IN OFFICE
2011 OCT 19 AM 10: 29
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 18, 2011

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.

Lui C. Britton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 31, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0291
PROFESSIONAL STANDARDS COMMISSION V. LAURA
LYNN PAPPAS

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.

71025
10A08996

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
MAR 31 2011

I certify that the above is a true extract from the minutes 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.
Holly K. A. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, MAR 21 2011

The Court of Appeals hereby passes the following order:

A11D0292. SAUERS v. STATE OF GEORGIA.

In June 2009, the trial court granted the State's motion for an order of forfeiture of a vehicle owned, in part, by Thomas William Sauers. Sauers moved to have the forfeiture order set aside under OCGA § 9-11-60 (d), and the trial court denied the motion by order entered August 31, 2010. In January 2011, Sauers filed a motion for reconsideration, which the trial court also denied. Sauers seeks discretionary review of this ruling. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. See OCGA § 5-6-35 (d). Sauers seeks to appeal the trial court's August 31, 2010 order denying the motion to set aside. Thus, he was required to file his application within 30 days of that ruling. Sauers did not, however, file his application until March 11, 2011, and it is thus untimely. Although Sauers sought reconsideration of the August 31 order, a motion for reconsideration does not extend the time for filing. See *Cheeley-Towns v. Rapid Group, Inc.*, 212 Ga. App. 183 (441 SE2d 452) (1994). Moreover, an order denying a motion for reconsideration is not appealable in its own right. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). For these reasons, we lack jurisdiction over this discretionary application, which is hereby *DISMISSED*

LC# 09V108

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR 21 2011

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

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

Kelly K. O. Spence, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, APR 11 2011

The Court of Appeals hereby passes the following order:

A11D0293. Carl Valery Thomas et al. v. America's Wholesale Lender et al.

Carl Valery Thomas and Eva June Thomas filed a civil action against four defendants. In an order entered on December 6, 2010, the trial court dismissed the action. On March 10, 2011, the Thomases filed this application for discretionary appeal.[1] To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because the Thomases filed this application 94 days after entry of the order they seeks to appeal, the application is untimely. The application is therefore DISMISSED for lack of jurisdiction.

LC# 10A8998

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

[1] It is not clear why the Thomases filed an application rather than a direct appeal. Unfortunately, they have not included sufficient materials with their application to enable this Court to determine the correct route of appeal in this case.

Court of Appeals of the State of Georgia

ATLANTA, APR 11 2011

The Court of Appeals hereby passes the following order:

A11D0294. Patricia Denese Anderson-Thomas v. America's Wholesale Lender et al.

Patricia Denese Anderson-Thomas filed a civil action against multiple defendants. In an order entered on December 6, 2010, the trial court dismissed the action. On March 10, 2011, Anderson-Thomas filed this application for discretionary appeal.[1] To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because Thomas filed this application 94 days after entry of the order she seeks to appeal, the application is untimely. The application is therefore DISMISSED for lack of jurisdiction.

LC# 10A8999

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomar , *Clerk.*

---

[1] It is not clear why Thomas filed an application rather than a direct appeal. Unfortunately, she has not included sufficient materials with her application to enable this Court to determine the correct route of appeal in this case.

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 05, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0295

CENTURY BANK OF GEORGIA V. JOHN S. SHROPSHIRE, SR.,

ET AL

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

91025

10CV2573

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR - 5 2011

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

Holly K. A. Spears

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0296

CITIBANK (SOUTH DAKOTA), N.A. ('CITIBANK") V. BART L. GRAHAM

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.

95025

2007CV140161

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2011

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

Holly K. D. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0297

SHERONNA LESTER V. MARK BUTLER

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

99025

10CV7236

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 12 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0298
NORTHEAST GEORGIA CANCER CARE, LLC V. BLUE CROSS
AND BLUE SHIELD OF GEORGIA, INC ET AL

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

98025
2010CV184934

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
APR 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia
Witness my signature and the seal of said court hereto affixed the day and year last above above written.
Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0299
RALPH T. HUDGES, COMMISSIONER OF INSURANCE, STATE OF GEORGIA V. BLUE CROSS AND BLUE SHIELD OF GEORGIA, INC., ET AL

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

98026
2010CV184934

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 11 2011

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

Holly K. O. Loarca

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0300

DERRICK CAMPBELL V. THE STATE

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

97025

2009SUCR360

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2011

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

Kelly K. A. Spence

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0301

DERRICK CAMPBELL V. THE STATE

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

97026

2008SUCR1259

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0302

DERRICK CAMPBELL V. THE STATE

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

97027

2009SUCR1114

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0303

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

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

96025

10DE00165

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 15 2011

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0304
IN THE INTEREST OF: E. G. & M. G., 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.

90026
2010104J042

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR - 7 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0305

GIDEON BEN ISRAEL ET AL V. US BANK NATIONAL ASSOCIATION

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

93026

2010CV03315

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 11 2011

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

Holly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0306
COASTAL MARSHLANDS PROTECTION COMMITTEE
V. ALTAMAHA RIVERKEEPER, INC., ET AL

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

71026
2009CV167096

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 14 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAR 25 2011

The Court of Appeals hereby passes the following order:

A11D0307. BONNETT v. GEORGIA FARM BUREAU MUTUAL INSURANCE COMPANY.

Kay Bonnett seeks discretionary review of several orders, including the trial court's order granting summary judgment to Georgia Farm Bureau Mutual Insurance Company. An order granting summary judgmentis subject to direct appeal. See OCGA § 9-11-56 (h); *Culwell v. Lomas & Nettleton Co.*, 242 Ga. 242, 243 (248 SE2d 641) (1978).

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not already filed a notice of appeal. As it does not appear that Bonnett has filed a notice of appeal, this application is hereby GRANTED. Bonnett 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 instructed to include a copy of this order in the record transmitted to this Court.

LC# 10CV059

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 25 2011

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

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

Kelly K. O. Loomis, ***Clerk.***

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0308

ARLINE KERMAN V. WALTER H. LEACH III

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

92026

09A9545

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 12 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APR 12 2011

The Court of Appeals hereby passes the following order:

A11D0309. DAVID J. KOLEOS v. LORETTA L. KOLEOS.

David J. Koleos and Loretta L. Koleos have two children. On May 9, 2010, Loretta Koleos filed a petition for an upward modification of child support provisions of the divorce decree. David Koleos sought a downward modification. On June 1, 2010, the trial court entered an order granting the mother's request for an upward modification and denying the father's request for a downward modification. On February 16, 2011, the trial court entered an order on cross motions for reconsideration, in which it granted the mother's motion and denied the father's. The father has filed an application for discretionary review of the order denying his motion for reconsideration.

The issues in this case arise out of the child support provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony. See *Jones v. Jones*, 280 Ga. 712, 715-716 (1) (632 SE2d 121) (2006). Jurisdiction over actions to modify a divorce decree's child support provisions lies in the Supreme Court. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010). Accordingly, because this matter involves child support modification, we lack jurisdiction over Koleos's appeal, which is hereby TRANSFERRED to the Supreme Court for disposition.

LC# 2008CV156524, 2008CV160281

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, APR 12 2011

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

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

Kelly K. O. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, APR - 1 2011

The Court of Appeals hereby passes the following order:

A11D0310. LEMOINE v. LEMOINE.

Elise Agnes Chardon Lemoine filed an application for discretionary appeal with the Supreme Court, seeking review of the trial court's January 7, 2011 order modifying the custody and visitation portion of a divorce decree. The Supreme Court found the application did not come within its jurisdiction and transferred it to this Court. We, however, lack jurisdiction.

To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Lemoine filed her application in the Supreme Court 33 days after the trial court entered its order. The application is thus untimely, and we lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR - 1 2011

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

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

Kelly K. A. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0311
FIRST SOUTHERN NATIONAL BANK, ET AL V. ALTAMAHA RIVERKEEPER, INC

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

71027
2009CV167096

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 14 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0312

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

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

95026

1000039

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 15 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, APR 21 2011

The Court of Appeals hereby passes the following order:

A11D0313. In the Interest of: A. E., J. E., and S. E., Children (Mother).

Upon consideration of this 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 the juvenile court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

In view of this Court's decision to grant the application, the "Motion to Require Provision of Transcript and for Permission to Supplement Application for Appeal" is hereby DISMISSED AS MOOT.

LC#'s 10JV1658, 10JV1660, 10JV1661

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR 21 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 20, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0314

JESUS VALDES V. MOHAWK INDUSTRIES ET AL

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

96026

10CI244

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 20 2011

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

Holly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 22, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0315

VIOLA E. ELWIN-MAHDI V. GEORGIA DEPARTMENT OF HUMAN 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 SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90027

10CV13749

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 22 2011

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

Kelly K. O. Lawson

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0316

DARRELL E. BROWN V. THE STATE

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

93027

03B2003

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 15 2011

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

Holly K. O. Sparrow

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 28, 2011

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 **S11C1261**.

DARRELL E. BROWN v. THE STATE

Clerk, Supreme Court of Georgia

APR 29 2011

Order
app
response
Amend Response
Info - Request for Order

Case No. A11D0316
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. S11C1261 Atlanta, November 07, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DARRELL E. 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 be hereby writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0316

RECEIVED IN OFFICE
2011 DEC -1 AM 11:59
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA
GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta November 30, 2011

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.

Lisa C. Hutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0317

JEAN JOCELYN MERILIEN V. KIM TUTIN

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

70027

2008CV159239

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 15 2011

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

Kelly K. O. Sparrow

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 26, 2011

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 **S11C1246**.

JEAN JOCELYN MERILIEN v. KIM TUTIN

Clerk, Supreme Court of Georgia

APR 28 2011
sent: APP, Brief, Amended Brief, Notice Exhibits

Case No. A11D0317
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. S11C1246 Atlanta, November 07, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JEAN JOCELYN MERILIEN v. KIM TUTIN

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0317

RECEIVED IN OFFICE
2012 MAY -9 PM 1:01
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta November 30, 2011

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.

Lisa C. Hutton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0318

MARION RANSAW V. J. B. HUNT TRANSPORT, INC. ET AL

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

92027

2010CV193704

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 15 2011

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

Holly K. O. Ganoe

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 18, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0319

THE CITY OF ATLANTA V. ANNAH HOLMES

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

94027

2010CV183065

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 18 2011

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

Holly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0320

PEMBERTON TRUCK LINES ET AL V. PATRICIA MURRAY

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

91027

2010CV194454

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 21 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 16, 2011

The Court of Appeals passed the following order

Case No. A11D0320

PEMBERTON TRUCK LINES ET AL V. PATRICIA 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 MAY 16, 2011

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

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

Clerk.

Kelly K. O. Loomis

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 06, 2011

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 **S11C1486**.

PEMBERTON TRUCK LINES et al. v. MURRAY

Clerk, Supreme Court of Georgia

JUN - 9 2011

Case No. A11D0320
Court of Appeals of Georgia

- 9 2011

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C1486 Atlanta, October 03, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

PEMBERTON TRUCK LINES et al. v. 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0320

RECEIVED IN OFFICE
2011 OCT 19 AM 10:30
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 18, 2011

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.

Lisa C. Hutton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, APR 15 2011

The Court of Appeals hereby passes the following order:

A11D0321. JUAN ROSAS v. CHARLES W. MANN.

Charles Mann filed a dispossessory action against Juan Rosas.[1] The trial court entered a writ of possession in favor of Mann and later awarded him attorney fees and expenses of litigation. Rosas moved to vacate the fee award on the ground that he never received a copy of it. The court granted his motion and set aside the fee award, after which Rosas filed this application for discretionary appeal. It appears from Rosas's application brief that he wishes to challenge the fee award. However, the only order in his application materials that was entered within 30 days of the date he filed the application is the order vacating the fee award. As that order *granted* the relief Rosas sought, we have nothing to review.[2] Accordingly, this application is DISMISSED.

LC# 2009V2400

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR 15 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loma, *Clerk.*

---

[1] Though initially filed in magistrate court, the action was later transferred to superior court.

[2] Rosas also requested sanctions, which the trial court denied. However, it does not appear from his brief that Rosas seeks to challenge this ruling.

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0322

JACKSON CARSWELL V. CHERYL CARSWELL

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

99027

2006D0546

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 12 2011

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

Kelly K. O. Spanow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 19, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0323

HUEY HARRISON AVERY III V. THE STATE

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

98027

2005CR1285

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 19 2011

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

Holly K. D. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0324

A & J FOODMART #1 ET AL V. STATE OF GEORIGA EX REL. GREGORY W. EDWARDS, DISTRICT ATTORNEY FOR THE DOUGHERTY JUDICIAL CIRCUIT

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

96027

2009CV1080

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 27 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 22, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0325

MUNIBA KAJTAZI V. CHICOS F.A.S., INC., ET AL

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

90028

11CV000008

RECEIVED IN OFFICE
2011 OCT 13 PM 4:08
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 22 2011

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

Holly K. O. Sparrow

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 12, 2011

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 **S11C1337**.

MUNIBA KAJTAZI v. CHICO F.A.S., et al.

Clerk, Supreme Court of Georgia

MAY 16 2011

Case No. A11D0325
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. S11C1337 Atlanta, September 12, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MUNIBA KAJTAZI v. CHICO F.A.S., 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0325

RECEIVED IN OFFICE
2011 OCT 13 PM 4:08
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 12, 2011

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.

Lisa C. Hilton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0326

IN THE INTERST OF: K. L. 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.

93028

010J090101

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0327
IN THE INTEREST OF: K. M. S., 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.

93029
010J090102

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 21 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, APR 21 2011

The Court of Appeals hereby passes the following order:

A11D0328. Matthew W. Howard v. GMAC Mortgage, LLC.

GMAC Mortgage, LLC obtained a writ of possession in the superior court against Matthew Howard, who then appealed to this Court.[1] On March 21, 2011, the superior court entered an order requiring Howard to pay rent into the registry of the court pending the outcome of his appeal. Nine days later, on March 30, 2011, Howard filed this application for discretionary review of the March 21 order.

Howard was entitled to a direct appeal of the March 21 order. See, e.g., *Thomas v. Wells Fargo Credit Corp.*, 200 Ga. App. 592, 594 (5) (409 SE2d 71) (1991). Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must have been timely filed. Appeals in dispossessory actions must be filed within seven days of the date the judgment or order was entered. OCGA § 44-7-56; *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Because Howard did not file his application within the seven-day period, it is untimely and is therefore DISMISSED for lack of jurisdiction.

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[1] Howard filed an application for discretionary appeal, which was granted under OCGA § 5-6-35 (j) because Howard had a right of direct appeal. See A11D0200, granted December 29, 2010.

LC# 10CV1974

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR 21 2011

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

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

Kelly K. A. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 02, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0329

SKYDIVE ARIZONA, INC., V. CARY QUATTROCCHI 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.

70028

10G35400

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 2 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 22, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0330

MELVIN PUCKETT V. WAL-MART ASSOCIATES INC., ET AL

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

92028

10CV2627

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 22 2011

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

Holly K. O. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, APR 28 2011

The Court of Appeals hereby passes the following order:

A11D0331. Sarah M. Garnes v. Charles J. Holz.

Sarah M. Garnes gave birth to a daughter in June 2005. Charles J. Holz later petitioned to legitimate the child and to establish custodial and visitation rights. Following a hearing, the trial court ruled that the child is Holz's legitimate daughter and awarded him joint legal custody. The court later established a visitation and child support schedule. Garnes now seeks discretionary review of these rulings.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). The orders in this case established legal custody over the child and granted Holz visitation, which "is considered a custody issue." *Daniels v. Barnes*, 289 Ga. App. 897, 899 n. 1 (658 SE2d 472) (2008); see also OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue."). Thus, the orders may be appealed directly.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). However, Garnes states in her application that she has already filed a timely notice of appeal in the trial court. Accordingly, this application is superfluous and is therefore DISMISSED.

LC# 10V0626

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, APR 28 2011

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

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

Kelly K. O. Loomer *, Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APR 21 2011

The Court of Appeals hereby passes the following order:

A11D0332. PUHY v. PUHY.

John Puhy and Andrea Puhy were divorced in 2007. In 2010, John Puhy petitioned to modify the child support provisions of the divorce decree, which the trial court dismissed. John Puhy filed a motion for reconsideration of the motion for modification in 2011. Following a hearing on several motions, including the motion for reconsideration, the trial court refused to modify child support. Puhy filed a notice of direct appeal to this Court.

The issues in this case arise out of the child support provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, when the obligation to pay child support arises from a prior divorce proceeding, child support is a form of alimony. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010); *Jones v. Jones*, 280 Ga. 712, 715-716 (2) (632 SE2d 121) (2006). Jurisdiction over actions to modify a divorce decree's child support provisions or to hold a party in contempt for failing to comply with those provisions lies in the Supreme Court. See *Spurlock v. Dept. of Human Resources*, 286 Ga. at 513-514 (1); *Smith v. Smith*, 254 Ga. 450, 451 (1) (330 SE2d 706) (1985). Accordingly, because this matter involves child support modification, we lack jurisdiction over Puhy's appeal, which is hereby TRANSFERRED to the Supreme Court for disposition.

LC# 2006CV116212

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, APR 21 2011

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0333

DAVID GARLAND THOMPSON 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.

95028

01B1345

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 28 2011

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

Holly K. A. Spears

Court of Appeals
of the State of Georgia

ATLANTA, MAY 02, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0334

LINDA MITCHELL V. MICHAEL L. THURMOND, COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR, ET AL

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

99028

10V379

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY - 2 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 27, 2011

The Court of Appeals hereby passes thefollowing order:

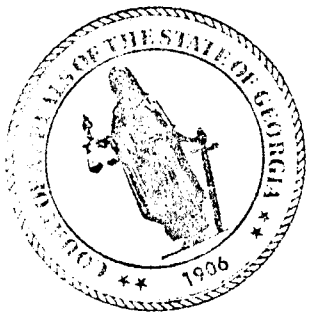
APPLICATION NO. A11D0335

HOK SRENG V. TRARATANARAM TEMPLE, INC., ET AL

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

98028

2009CV01910



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 27 2011

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

Kelly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A11D0335. HOK SRENG v. TRAIRATANARAM TEMPLE, INC. AND FRNKLIN T. LY.

Trairatanaram Temple, Inc. and Frankly T. Ly's motion for sanctions is hereby denied.

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

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

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

Kelly K. A. Loarca , *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 17, 2011

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 **S11C1360**.

HOK SRENG v. TRAIRATANARAM TEMPLE, INC., et al.

Clerk, Supreme Court of Georgia

MAY 18 2011

Case No. A11D0335
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. S11C1360 Atlanta, October 03, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HOK SRENG v. TRAIRATANARAM TEMPLE, 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0335

RECEIVED IN OFFICE
2012 JAN 27 PM 12:06
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta January 26, 2012

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.

Sui C. Sutton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0337
KESSLER, SCHWARZ & SOLOMIANY, P.C., ET AL V. LAYTONA
JONES OWENS ET AL

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

97029
07A05249

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 28 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAY - 5 2011

The Court of Appeals hereby passes the following order:

A11D0338. Bobby Paradise v. The State.

Bobby Paradise was convicted of four counts each of child molestation, aggravated child molestation, and aggravated sodomy for acts committed against his eight-year-old daughter and seven-year-old stepdaughter. At sentencing, the trial court merged the aggravated child molestation and aggravated sodomy convictions and sentenced Paradise on the latter convictions. Paradise appealed, but we affirmed. *Paradise v. State*, 212 Ga. App. 166 (441 SE2d 497) (1994).

Five years later, the Supreme Court held that "force is a separate essential element which the State is required to prove to obtain a conviction for aggravated sodomy against a victim under the age of consent." *Brewer v. State*, 271 Ga. 605, 606 (523 SE2d 18) (1999). The Court later held that because *Brewer* announced a new rule of substantive criminal law, it must be applied retroactively to cases on collateral review. *Luke v. Battle*, 275 Ga. 370 (565 SE2d 816) (2002).

In February 2011, Paradise filed an "Emergency Motion" in his criminal case, seeking to have his aggravated sodomy convictions vacated. Paradise contends that those convictions are void under *Brewer* because there was no evidence that he used any force against the victims. The trial court denied Paradise's motion, and this application followed.[1] As the Supreme Court has recently made clear, however, a post-conviction motion to vacate an allegedly void criminal conviction is not one of the established procedures for challenging the validity of a judgment in a criminal

---

[1] Paradise filed this application in the Supreme Court, which subsequently transferred it here.

case, and an appeal from the trial court's ruling on such a motion should be dismissed. See *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010); see also *Harper v. State*, 286 Ga. 216 (686 SE2d 786) (2009).[2]

Accordingly, this appeal is hereby DISMISSED.

LC#92CR16

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY - 5 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lawson , *Clerk.*

---

[2] The Court has also explained that a criminal defendant seeking to challenge a conviction after it has been affirmed on direct appeal may "file an extraordinary motion for new trial, OCGA § 5-5-41, a motion in arrest of judgment, OCGA § 17-9-61, or a petition for habeas corpus, OCGA § 9-14-40." *Harper*, supra at 217 (1).

Court of Appeals
of the State of Georgia

ATLANTA, JUL 21 2011

The Court of Appeals hereby passes the following order:

A11D0338. Bobby Paradise v. The State.

Bobby Paradise seeks reconsideration of our order dismissing for lack of jurisdiction his application for discretionary appeal. Paradise contends that this Court misapprehended the procedural posture of his case. Although he is correct, we nonetheless lack jurisdiction to consider his arguments.

As noted in our dismissal order, Paradise was convicted of multiple counts of sexual offenses against children, and his convictions were affirmed on appeal. *Paradise v. State*, 212 Ga. App. 166 (441 SE2d 497) (1994). In February 2011, Paradise filed in the Supreme Court an "Emergency Motion, Filed in the Interest of Equality, and Fairness of the Law," in which he argued that the State failed to prove that he used force against his underage victims, which is an essential element of the crime of aggravated sodomy. See *Brewer v. State*, 271 Ga. 605 (523 SE2d 18) (1999). The Supreme Court docketed Paradise's motion as an application for discretionary appeal and transferred it here. Based on the sparse materials before us, we incorrectly assumed that Paradise had filed the motion in the trial court, which had denied it. We then dismissed Paradise's application for lack of jurisdiction because a post-conviction motion to vacate an allegedly void conviction is not one of the established procedures for challenging the validity of a judgment in a criminal case. See *Harper v. State*, 286 Ga. 216 (686 SE2d 786) (2009).

In his motion for reconsideration, Paradise points out that he filed the emergency motion in the Supreme Court, not the trial court. That fact, however, does not imbue us with jurisdiction to consider his motion. "Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below

and ruled on by the trial court." *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009). In the absence of a ruling by the trial court, we have nothing to review. *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010). Thus, this "application" should not have been docketed by this Court because it was not an effort to seek review of the trial court's ruling on Paradise's *Brewer* argument. Having erroneously docketed the application, however, our only recourse was to dismiss it for lack of jurisdiction.

Paradise's motion for reconsideration is DENIED.

LC# 92CR16

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 21 2011

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

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

Kelly K. A. Spencer , *Clerk.*

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: August 08, 2011

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 **S11C1852**.

BOBBY PARADISE v. THE STATE

Clerk, Supreme Court of Georgia

AUG 10 2011

Case No. A11D0338
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. S11C1852 Atlanta, November 30, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BOBBY PARADISE 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0338

2012 JAN 24 PM 1:23

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta January 23, 2012

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.

Sue C. Rittor , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, MAY 03, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0339

JAMES MCQUEEN 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 STATE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90029

ST10CR2260

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 3 2011

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

Holly K. A. Lawson

Court of Appeals
of the State of Georgia

ATLANTA, MAY 03, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0340
SHAROD C. ROUSE V. ADCOX SQUARE COMMUNITY
ASSOCIATION, INC

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

71029
10CV2177

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

MAY - 3 2011

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

Kelly K. O. Lawson

Court of Appeals
of the State of Georgia

ATLANTA, MAY 06, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0341

HAVANA SANDWICH SHOP, LLC ET AL V. WILLIAM BENEDIT

D/B/A THE HANAVA GRILL ET AL

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

70029

10CV1556

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 6 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, May 10, 2011

The Court of Appeals hereby passes the following order:

A11D0342. TINA WILSON v. FREDERICK T. WILLIAMS AND LISA R. WILLIAMS.

It appearing the order of this Court which issued MAY 6, 2011, is incorrect due to a clerical error, it is hereby ordered that the order attached hereto be SUBSTITUTED therefor.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 10 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAY 10 2011

The Court of Appeals hereby passes the following order:

A11D0342. TINA WILSON v. FREDERICK T. WILLIAMS AND LISA R. WILLIAMS.

This case was incorrectly styled as Tina Wilson v. The State when docketed on April 8, 2011. Respondents' Motion to Correct Style is hereby GRANTED, and the correct style of the case is as stated above. 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 Fulton County 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 10 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 05, 2011

The Court of Appeals hereby passes thefollowing order:

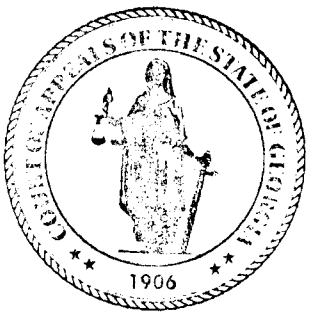
APPLICATION NO. A11D0343

PIERRE RAMON TRIPP V. THE STATE

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

94029

2006C36665



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY - 5 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0344

ALLEN ALPHONZO ADAMS V. BRIAN OWENS, COMR., ET AL

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

91029

2011CV196464

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 11 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 10, 2011

The Court of Appeals passed the following order

Case No. A11D0344

ALLEN ALPHONZO ADAMS V. BRIAN OWENS, COMR., ET AL

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

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 10, 2011

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

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

Clerk.

Holly K. O. Sparrow

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 08, 2011

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 **S11C1666**.

ALLEN ALPHONZO ADAMS v. BRIAN OWENS, COMMISSIONER et al.

Clerk, Supreme Court of Georgia

JUL 13 2011

Case No. A11D0344
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. S11C1666 Atlanta, January 23, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALLEN ALPHONZO ADAMS v. BRIAN OWENS, COMMISSIONER 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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A11D0344

RECEIVED IN CLERK'S OFFICE
FEB 08 2012

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 08, 2012

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.

Lisa C. Britton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S11C1666

Atlanta, January 23, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALLEN ALPHONZO ADAMS v. THE STATE

Because petitioner failed to file his petition for writ of certiorari within 20 days after the date of disposition of his motion for reconsideration in the Court of Appeals, see Supreme Court Rule 38 (2), the petition is untimely and hereby is dismissed.

Court of Appeals Case No. A11D0344

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.

Sue C. Fulton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, MAY - 6 2011

The Court of Appeals hereby passes the following order:

A11D0345. In The Interest of J. L. B., a child (mother).

The mother of this minor child filed this application for discretionary appeal to challenge the termination of her parental rights. The trial court entered its termination order on April 16, 2010. The mother filed a motion for new trial, which she has failed to include with her application. The trial court denied the motion on March 9, 2011. Thirty-three days later on April 11, 2011, the mother filed this application seeking discretionary review of the trial court's order denying her motion for new trial.

In order for this Court to have jurisdiction, an application for discretionary appeal must be timely filed. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). An application is timely if it is filed within 30 days of the entry of the order the applicant seeks to appeal. OCGA § 5-6-35 (d). Because the mother's application was filed 33 days after the denial of her motion for new trial, it is untimely. Thus, this application for discretionary appeal is hereby *DISMISSED.*

LC# 02809J1433

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY - 6 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 15, 2011

The Court of Appeals passed the following order

Case No. A11D0345

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

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

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 15, 2011

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

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

Clerk Holly K. O. Sparrow

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 05, 2011

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 **S12C0207**.

IN THE INTEREST OF J.L.B., A CHILD

Clerk, Supreme Court of Georgia

OCT - 6 2011

Case No. A11D0345
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. S12C0207 Atlanta, January 23, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN THE INTEREST OF J.L.B., A CHILD

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

All the Justices concur.

Court of Appeals Case No.
A11D0345

RECEIVED IN OFFICE
2012 FEB -8 PM 4:19

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 08, 2012

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.

Sue C. Britton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, MAY 10 2011

The Court of Appeals hereby passes the following order:

A11D0346. McCLENDON v. THE STATE.

Walter Howard McClendon pled guilty to several offenses in 2004. He filed a notice of appeal in March 2011, which the trial court dismissed. McClendon seeks discretionary review of this ruling. A dismissal of an appeal by a lower court, however, is directly appealable. See *Castleberry's Food Co. v. Smith*, 205 Ga. App. 859 (424 SE2d 33) (1992).

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Here, McClendon has already filed a timely notice of appeal in the trial court and the appeal has been docketed as Case Number A11A1535. Accordingly, this application is superfluous and is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 10 2011

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 02, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0347
IN THE INTEREST OF: T. N., 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.

98029
101584

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
MAY - 2 2011

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

Holly K. O. Lomax

Court of Appeals
of the State of Georgia

ATLANTA, MAY 05, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0348

THOMAS G. HARRIS V. MICHAEL L. THURMAN ET AL

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

96029

2010CV189021

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 5 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, APR 22 2011

The Court of Appeals hereby passes the following order:

A11D0349. SHERMAN v. FULTON COUNTY BOARD OF TAX ASSESSORS et al.

John S. Sherman seeks discretionary review of the trial court's order denying his motion for class certification. Pursuant to OCGA § 9-11-23 (g), "[a] court's order certifying a class or refusing to certify a class shall be appealable in the same manner as a final order to the appellate court which would otherwise have jurisdiction over the appeal from a final order in the action." Thus, the order at issue here may be appealed directly.

Under OCGA § 5-6-35 (j), this court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. Accordingly, Sherman's application is hereby GRANTED. Sherman shall have 10 days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is directed to include a copy of this order in the appellate record.

LC# 2009CV171275

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR 22 2011

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0350

MARLOS JONES 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.

93030

06CR294

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 11 2011

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

Kelly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, MAY 05, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0351

LISA R. REEVES, ESQ, F/K/A LISA R. ROBERTS, ESQ ET AL

V. UPSON 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.

71030

2004V650

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 5 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0352

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

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

70030

10JV1910

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 13 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0353

BILLY JOE GRAY 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.

92030

09CR733

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 12 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUL 12 2011

The Court of Appeals hereby passes the following order:

A11D0354. JANE CAMPBELL v. MARY MARGARET OLIVER et al.

Jane Campbell filed a motion for reconsideration of this Court's order dismissing her application for discretionary appeal as untimely. As the application was, indeed, untimely, the motion for reconsideration is DENIED. However, this Court's order of May 17, 2011, dismissing the application is VACATED, and a substituted order shall issue.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 12 2011

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

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

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 17 2011

The Court of Appeals hereby passes the following order:

A11D0354. JANE CAMPBELL v. MARY MARGARET OLIVER et al.

After Jane Campbell was found in willful contempt for her failure to comply with a final judgment and divorce decree that required her to refinance several pieces of real estate, Campbell agreed to a consent order appointing a receiver, who was expressly granted the authority to file dispossessory proceedings if necessary to gain possession of any of the properties. The receiver filed a dispossessory warrant in state court, which was consolidated with the above-referenced contempt action in superior court. On July 28, 2010, the superior court entered an order of eviction, which provided that Campbell would be evicted from one of the properties, effective August 15, 2010.

Campbell appealed the order of eviction to this Court, which transferred the appeal to the Supreme Court, because it involved a judgment in a contempt action seeking to enforce a portion of a divorce decree. The Supreme Court dismissed the appeal on January 13, 2011, for failure to follow the discretionary appeal procedures governing cases involving divorce and alimony. After the remittitur, the superior court entered a writ of possession on February 15, 2011. Appealing the writ of possession, Campbell filed an application for discretionary appeal in the Supreme Court on March 17, 2011. The Supreme Court concluded that the appeal concerned a dispossessory action only and transferred the case to this Court. We, however, lack jurisdiction.

Appeals in dispossessory actions must be filed within seven days after entry of the order referenced in the notice of appeal. OCGA § 44-7-56; *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Because Campbell's application

for discretionary appeal was filed 30 days after entry of the order she seeks to appeal, it is untimely and is therefore DISMISSED.

It is further ordered that the motion for sanctions is DENIED. Although Court of Appeals Rule 15 (b) allows the imposition of a penalty for the filing of a frivolous application for discretionary appeal, we decline to award sanctions in this case.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 17 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. D. Loscoe , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 16 2011

The Court of Appeals hereby passes the following order:

A11D0355. Allen Alphonzo Adams v. James Levi Cline et al.

Prison inmate Allen Alphonzo Adams filed a civil action against several sitting judges. He later filed a motion for summary judgment in his favor, which the trial court denied in an order entered on January 28, 2011. On March 15, 2011, Adams filed this application for discretionary appeal.[1] We lack jurisdiction.

First, the application is untimely. 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). Adams, however, filed this application 46 days after the entry of the trial court's order. Second, Adams was required to follow the interlocutory appeal procedures of OCGA § 5-6-34 (b) to appeal the denial of a motion for summary judgment. See *Pace Constr. Corp. v. Northpark Assoc.*, 215 Ga. App. 438, 439 (450 SE2d 828) (1994).

For these reasons, this application for discretionary appeal is DISMISSED for lack of jurisdiction. Adams' "Motion to Dismiss Respondent's Counsel in Opposition to Application for Discretionary Appeal" is DISMISSED as MOOT.

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[1] Adams filed the application in the Supreme Court, which transferred it here.

LC# 2010CV585

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAY 16 2011

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

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

Kelly K. A. Loarca , *Clerk.*

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: August 03, 2011

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 **S11C1832**.

ALLEN ALPHONZO ADAMS v. JAMES LEVI CLINE et al.

Clerk, Supreme Court of Georgia

Case No. A11D0355
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. S11C1832 Atlanta, November 30, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALLEN ALPHONZO ADAMS v. JAMES LEVI CLINE 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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A11D0355

2012 JAN 24 PM 1:22

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta January 23, 2012

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.

Sue C. Britton , Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. **S11C1832**

Atlanta, November 30, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALLEN ALPHONZO ADAMS v. JAMES LEVI CLINE et al.

On May 16, 2011 the Court of Appeals dismissed the application to appeal. Thus the petition for certiorari was required to be filed by June 6, 2011. Supreme Ct. Rule 38 (2). Because the notice of appeal, which the Court construes as a petition for certiorari, was not filed until August 3, 2011, it is untimely and the Court hereby directs 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.

Sue C. Fulton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, MAY 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0356

ORIENTAHAL ARNOLD V. THE STATE

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

95030

02CR0382

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 12 2011

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

Holly K. O. Loarca

Court of Appeals
of the State of Georgia

ATLANTA, MAY 18, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0357

CHARLES LAMAR WHITE, JR., V. THE STATE

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

99030

01CR228

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 18 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, MAY 05 2011

The Court of Appeals hereby passes the following order:

A11D0358. ANTHONY CLARK ET AL. v. US BANK NATIONAL ASSOCIATION.

Anthony Clark seeks discretionary review of an order entered by the Magistrate Court of DeKalb County in this dispossessory action. "The only avenue of appeal available from [a] magistrate court judgment is provided by OCGA § 15-10-41 (b) (1), which allows for a de novo appeal to the state or superior court." *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). In other words, a party aggrieved by a magistrate court ruling must first seek review in the state or superior court. Clark failed to follow this procedure, instead filing an application for discretionary appeal to this Court. Because we can only address magistrate court matters that have been reviewed by the state or superior court, we have no authority to consider his application. See id.; *Westwind Corp. v. Washington Federal Savings & Loan Assn.*, 195 Ga. App. 411 (1) (393 SE2d 479) (1990). Jurisdiction over Clark's appeal, therefore, lies below.

The Georgia Constitution requires that "[a]ny court shall transfer to the appropriate court in the state any civil case in which it determines that jurisdiction or venue lies elsewhere." 1983 Ga. Const., Art 6, § 1, ¶ 8; *Bosma v. Gunter*, 258 Ga. 664 (373 SE2d 368) (1988). Accordingly, this appeal is hereby TRANSFERRED to the Superior Court of DeKalb County for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAY - 5 2011

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAY 17 2011

The Court of Appeals hereby passes the following order:

A11D0358. ANTHONY CLARK et al. v. US BANK NATIONAL ASSOCIATION.

On May 5, 2011, we transferred Anthony Clark's application for discretionary appeal from an order in a dispossessory action that, on its face, appeared to have been entered by the Magistrate Court of DeKalb County and informed Clark that he was required to first seek review in the state or superior court. The State Court of DeKalb County has since provided to this Court a supplemental order, which shows that the order from which Clark appealed was entered by the State Court, rather than the Magistrate Court of DeKalb County. Therefore, we vacate our order of May 5, 2011. However, we lack jurisdiction to consider Clark's application.

Clark filed a motion to set aside the trial court's dispossessory order of March 2, 2010, which the trial court denied by order dated March 28, 2011. Although an application for discretionary appeal can usually be filed within 30 days of the date of entry of the order sought to be appealed, it is the underlying subject matter of an appeal that generally will control over the relief sought in determining proper appellate procedure. See *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). The underlying subject matter of this application is a dispossessory proceeding. OCGA § 44-7-56 specifically provides that "any judgment" in a dispossessory suit is appealable only if "any such appeal shall be filed within seven days of the date such judgment was entered." Because this application was not filed within seven days of the date of entry of the order denying the motion to set aside, it is untimely. Compare *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522 (521 SE2d 456) (1999). This Court lacks appellate jurisdiction over this application because it

is untimely and accordingly, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 17 2011

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 24, 2011

The Court of Appeals passed the following order

Case No. A11D0258

SUNDAY N. UDOINYION V. MICHELIN NORTH AMERICA INC

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 24, 2011

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

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

Clerk.

Holly K. O. Loanos

Court of Appeals
of the State of Georgia

ATLANTA, MAY 10, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0359

SHEAVONNE FINCH 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.

97030

08CR1141

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 10 2011

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

Kelly K. A. Lawson *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0360

ELIZABETH DELGADO V. CRAIG M. COMBS

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.

96030

2010D1384

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 12 2011

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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, MAY 19, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0361
IN THE INTEREST OF: G. A. L., T. M. L., 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.

90031
0219100811

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 19 2011

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

Kelly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, MAY 24 2011

The Court of Appeals hereby passes the following order:

A11D0362. DOUGLAS DODSON v. SARAH WALRAVEN.

Douglas Dodson and Sarah Walraven are the biological parents of David Joseph Walraven, born October 18, 2007. Dodson sought an adjudication of paternity, legitimation, custody and visitation, and to have the child's name changed. In its amended final order, the trial court granted the legitimation petition, awarded legal custody to both parents and physical custody to Walraven, ordered Dodson to pay child support, and awarded attorney fees to Walraven. Dodson now seeks discretionary review of these rulings.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009).

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Dodson shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

LC# 08107715

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAY 24 2011

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

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

Kelly K. A. Loomer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAY 11 2011

The Court of Appeals hereby passes the following order:

A11D0363. ARLANDA A. SMITH v. GEORGE N. TURNER.

On April 22, 2011, Arlanda A. Smith filed this application for discretionary appeal seeking to challenge the trial court's March 2, 2011 order denying his request to expunge his record of an arrest for false imprisonment and simple battery. After entry of the March 2nd order, Smith filed a motion for reconsideration of the trial court's decision, which was denied on March 22, 2011.

To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d). Smith's application, however, was not filed until 51 days after entry of the trial court's order he seeks permission to appeal. Consequently, we lack jurisdiction to consider his application. A motion for reconsideration does not extend the time for filing an application to challenge to the order denying his request for expungement. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Therefore, his application is hereby DISMISSED as untimely.

LC# 2010CV182040

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 11 2011

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

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

Kelly K. A. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0364

CITY OF ATLANTA ET AL V. TIMOTHY PALMER

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

70031

2010CV194744

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 24 2011

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

Holly K. O. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, MAY 20, 2011

The Court of Appeals hereby passes thefollowing order:

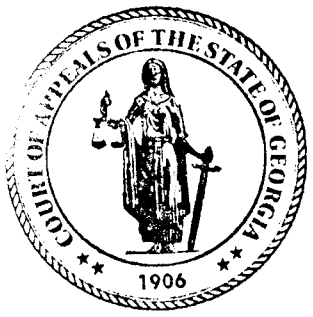
APPLICATION NO. A11D0365

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

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

92031

029101092



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 20 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 17, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0366

IN THE INTEREST OF: Z. M. P., 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.

94031

1100227

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 17 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 23, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0367

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

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

91031

JUV110015

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 23 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 31, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0368

HARRIS CLAY ET AL V. AUGUSTA, GEORGIA A/K/A AUGUSTA-RICHMOND COUNTY, GEORGIA ET AL

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

95031

2011RCCV0114

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 31 2011

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

Kelly K. O. Spencer

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C1495 Atlanta, October 03, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HARRIS CLAY et al. v. AUGUSTA-RICHMOND 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0368

RECEIVED IN OFFICE
2011 OCT 19 AM 10:30
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 18, 2011

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.

Lisa C. Hilton, 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: June 10, 2011

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 **S11C1495**.

HARRIS CLAY et al. v. AUGUSTA-RICHMOND COUNTY et al.

Clerk, Supreme Court of Georgia

JUN 13 2011

JUN

Case No. A11D0368
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, MAY 19, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0369

TOMMY LEWIS, D/B/A 2-A PAINT AND BODY ET AL V. CAPITAL 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 SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99031

06CV13477

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 19 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAY 18 2011

The Court of Appeals hereby passes the following order:

A11D0370. H. Guy Jones v. Dony Lynn Green-Well a/k/a Donyale Lynn Greenwell, Donyale Lynn Duncan, Donyale Lynn Duncan Greenwell, Donyale Lynn Greenwell Duncan.

H. Guy Jones, pro se, seeks leave to appeal the trial court's order granting Donyale L. Duncan's motion to reopen. The application does not contain the original complaint. However, Defendant's Answer and Counterclaim shows that it is in "response to the foregoing Complaint for Divorce," and includes Duncan's counterclaim for divorce. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases. See Ga. Const. 1983, Art VI, Sec. VI, Para. III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). As the underlying subject matter of this application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 18 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAY 06, 2011

A11I0237. HUEY P. BLAKE v. DEUTSCHE BANK

The Honorable Court of Appeals hereby passes the following order:

It appearing the DISCRETIONARY application A11D0371 was incorrectly filed due to clerical error, it is hereby ordered that said application is hereby changed to an INTERLOCUTORY application with the case number A11I0237 as stated above.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY - 6 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

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

Clerk.

Holly K. D. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JULY 11, 2011

The Court of Appeals passed the following order

Case No. A11D0372

CLEMENT WAMBACH V. KATHRYN A. HARRISON

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

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 11, 2011

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

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

Clerk.

Holly K. O. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, MAY 31, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0373

INDIANITA COHEN V. ATLANTA BOARD OF EDUCATION

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

90032

2011CV196314

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 31 2011

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

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA, MAY 26 2011

The Court of Appeals hereby passes the following order:

A11D0374. JORDAN v. WORD OF TRUTH FAMILY CHURCH, INC. et al.

Walton Jordan sued Word of Truth Family Church, Inc., Bryan White, and Glenda Jordan. By order entered November 17, 2010, the trial court granted the defendants' motion for summary judgment. On May 4, 2011, Jordan filed an application for discretionary appeal seeking review of that order.

Orders granting summary judgment are subject to direct appeal. See OCGA § 9-11-56 (h). Ordinarily, if a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order to be appealed. See OCGA § 5-6-35 (d) & (j); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Jordan filed his application 168 days after entry of the order at issue. Accordingly, his application is untimely and subject to dismissal.

We note that Jordan filed an "objection" to the court's grant of summary judgment, which the trial court treated as a motion for reconsideration/motion for new trial. The court denied this motion by order dated March 25, 2011. To the extent that Jordan bases his application upon this order, we still lack jurisdiction. First, the application was filed 40 days after the order and is thus untimely. Secondly, neither a motion for reconsideration nor a motion for new trial serve to extend the time for filing an appeal from the grant of summary judgment. See *Leader Nat. Ins. Co. v. Martin*, 185 Ga. App. 27, 29 (1) (363 SE2d 281) (1987) (motion for new trial not proper vehicle for appellate review following grant of summary judgment); *Cheeley-Towns v. Rapid Group, Inc.*, 212 Ga. App. 183 (441 SE2d 452) (1994) (motion for reconsideration does not extend the time for filing). For these reasons, we lack

Court of Appeals
of the State of Georgia

ATLANTA, MAY 26, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0375

KAREN DANIEL V. HONEY BAKED HAM COMPANY OF GEORGIA, INC.

ET AL

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

71032

11CV00353

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 26 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, MAY 31 2011

The Court of Appeals hereby passes the following order:

A11D0376. Jay B. Aiken v. Susan McEwen Sigmon.

On March 22, 2011, the trial court entered a family violence protective order against Jay B. Aiken. On May 5, 2011, Aiken filed this application for discretionary appeal, seeking to challenge the protective order.[1] We, however, lack jurisdiction. To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d). Aiken filed his application 44 days after the trial court entered its order. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED as untimely.

LC# 10F00543

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 31 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

[1] Although we initially received Aiken's application on April 15, 2011, we could not accept it for filing because Aiken failed to include the filing fee or sufficient pauper's affidavit required by OCGA § 5-6-4 and Court of Appeals Rule 5.

Court of Appeals
of the State of Georgia

ATLANTA, JUL 19 2011

The Court of Appeals hereby passes the following order:

A11D0377. DERRICK B. JACKSON v. BUTCH REECE.

Derrick B. Jackson filed a discretionary application seeking review of the trial court's order granting Butch Reece's motion to dismiss with prejudice on the grounds of sovereign and official immunity. This Court granted Jackson's application under OCGA § 5-6-35 (j), after concluding that the trial court's order was directly appealable pursuant to OCGA § 5-6-34 (a). For the reasons stated below, this Court's order granting the application under OCGA § 5-6-35 (j) is VACATED.

Reece filed a motion for reconsideration in which he advised this Court that Jackson was an inmate when he filed his complaint and therefore was required to file an application for discretionary appeal under OCGA § 42-12-8. Upon further review, Reece is correct that Jackson was incarcerated when he filed his complaint. Therefore, Jackson's appeal is controlled by the Prison Litigation Reform Act of 1996, with which Jackson complied when he filed his application for discretionary appeal. Consequently, Reece's motion for reconsideration is therefore GRANTED.

Upon consideration of the merits of Jackson's application for discretionary appeal, however, it is hereby DENIED. Jackson's motion to dismiss Reece's motion for reconsideration is also hereby DENIED.

LC# 10CV513

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 19 2011

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

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

Kelly K. A. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAY 19 2011

The Court of Appeals hereby passes the following order:

A11D0377. DERRICK B. JACKSON v. BUTCH REECE.

Derrick B. Jackson seeks discretionary review of the trial court's April 7, 2011, order granting the defendant's motion to dismiss with prejudice on the grounds of sovereign and official immunity. Under these circumstances, the trial court's order is a directly appealable final judgment. See OCGA § 5-6-34 (a).

When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j). Because this application falls under OCGA § 5-6-35 (j), it is hereby *GRANTED.* Jackson shall have ten (10) days from the date of this order to file a notice of appeal.[1] OCGA § 5-6-35 (g). The Clerk of the Superior Court of Jones County is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC# 10CV513

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 19 2011

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

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

Kelly K. A. Spanos , *Clerk.*

---

[1] If the applicant has already filed a notice of appeal, he need not file a second notice.

Court of Appeals
of the State of Georgia

ATLANTA, MAY 26, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0378

IN THE INTEREST OF: S. E. K., A CHILD (PARENTS)

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

94032

08J124

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 26 2011

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

Kelly K. O. Lawson

Court of Appeals of the State of Georgia

ATLANTA, MAY 31 2011

The Court of Appeals hereby passes the following order:

A11D0379. JAMES L. BROWN v. THE STATE.

James L. Brown seeks discretionary review of the trial court's order revoking 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 Brown seeks to appeal was signed by the trial court on October 21, 2009, and entered February 11, 2010. Brown did not file this application until more than one year later, on May 2, 2011. Consequently, this application is untimely, and we lack jurisdiction to consider it.

Brown relies on an order entered April 13, 2011, in which the trial court granted Brown's 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 a 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). We therefore *DISMISS* this application.

LC# 0200600

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 31 2011

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 27 2011

The Court of Appeals hereby passes the following order:

A11D0380. JOSEPH FOWLER v. THE STATE.

After the grant of an out-of-time appeal and the denial of his motion for a new trial, Joseph Fowler filed this application for a discretionary appeal under OCGA § 5-6-35 (a) (5) seeking permission to challenge the decision of the Superior Court of Catoosa County on March 13, 2006, to revoke his probation. This application was filed on May 5, 2011.

Fowler filed a motion for an out-of-time appeal on June 16, 2006, and the motion was granted the same day. Out-of-time appeals, however, are not authorized in probation revocation cases because out-of-time appeals are the remedy for the frustrated right of appeal in criminal cases. *Richards v. State*, 275 Ga. 190, 191 (563 SE2d 856) (2002). A probation revocation, however, is not a criminal case. *Foskey v. Sapp*, 237 Ga. 788 (229 SE2d 635) (1976).

Consequently, Fowler's motion for new trial filed on June 26, 2006, pursuant to the grant of the out-of-time appeal, and the superior court's denial of that motion on April 6, 2011, were nullities that did not extend the time in which to file this application. Thus, this application is untimely. As compliance with the requirements of OCGA § 5-6-35 is a jurisdictional requirement, an appellate court has no authority to accept an application without compliance with these statutory provisions. (Emphasis and citation omitted.) *Hogan v. Taylor County Bd. of Ed.*, 157 Ga. App.

680 (278 SE2d 106) (1981). Accordingly, Fowler's application, filed more than five years after his probation was revoked, must be **DISMISSED**.

LC# 05CR01131

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAY 27 2011

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

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

Kelly K. A. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA,

MAY 26 2011

The Court of Appeals hereby passes the following order:

A11D0381. Janice Tyliczka v. Amy Chance.

After the trial court dismissed Janice Tyliczka's civil action for want of prosecution, she filed a motion to set aside the dismissal under OCGA §§ 9-11-60 (d) and 9-11-60 (g), arguing that she had failed to receive notice of a scheduled hearing. The trial court denied her motion. Tyliczka then filed this application for discretionary appeal, as well as a notice of direct appeal.

The denial of a motion to set aside due to a clerical error under OCGA § 9-11-60 (g) may be appealed directly. See *Downs v. C.D.C. Federal Credit Union*, 224 Ga. App. 869 (1) (481 SE2d 903) (1997); *Crawford v. Kroger Co.*, 183 Ga. App. 836 (1) (360 SE2d 274) (1987). That Tyliczka also sought relief under OCGA § 9-11-60 (d) does not alter this fact. See *Martin v. Williams*, 263 Ga. 707, 709-710 (3) (438 SE2d 353) (1994).

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Here, it appears that Tyliczka has already filed a timely notice of appeal in the trial court. Accordingly, this application is superfluous and is therefore DISMISSED.

LC# 04CV35376

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 26 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0382

ELISA M. LOWE V. MICHAEL L. LOWE

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.

98032

08CV1124

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 25 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0383

VANESSA STOKES V. COWETA COUNTY BOARD OF EDUCATION

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

97032

2011V297

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 27 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0384

PDQ SERVICES, INC., ET AL V. ANNE FRANCOIS

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

96032

2007EV002470

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN - 7 2011

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

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 08, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0385

PHF II BUCKHEAD LLC, D/B/A SHERATON BUCKHEAD HOTEL

ATLANTA V. SOLOMON TAYE DINKU

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

90033

2008EV004616

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 8 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0386

ASIF RAZA V. SUNTRUST MORTGAGE, INC

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

93033

10110594

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 7 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUN - 8 2011

The Court of Appeals hereby passes the following order:

A11D0387. ANTHONY D. LEGETTE v. THE STATE.

In 1996, Anthony Legette pleaded guilty to hijacking a motor vehicle and armed robbery. Legette filed a motion to vacate, set aside, or correct sentence, alleging that his sentence was void. The trial court denied the motion, and Legette filed this application for discretionary appeal.[1]

A direct appeal lies from the denial of a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216, 218 (1), n. 1 (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). But a sentence is void only when the trial court imposes punishment that the law does not allow. *Jordan v. State*, 253 Ga. App. 510, 511 (1) (559 SE2d 528) (2002). And Legette does not contend that his 10-year consecutive sentences exceed the legal limits. Rather, he contends, in essence, that the state violated the plea agreement when it failed to dismiss the armed robbery charge. Accordingly, Legette has not raised a colorable void sentence claim. See *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004); *Reynolds v. State*, 272 Ga. App. 91 (611 SE2d 750) (2005). Accordingly, we lack jurisdiction to review Legette's claim. His application, therefore, is hereby *DISMISSED* for lack of jurisdiction.

---

[1] In violation of Court of Appeals Rule 31 (b), Legette did not include a copy of the motion he filed that led to the order he seeks to appeal. Based upon the arguments Legette raises in his application, it appears that Legette's motion sought to vacate his sentence on the ground that the plea proceedings were void.

LC#1994RCCR1598

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JUN - 8 2011

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

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

Kelly K. D. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, MAY 26 2011

The Court of Appeals hereby passes the following order:

A11D0388. In the Interest of: J. F. and J. F., Children (Father).

On October 19, 2010, the trial court entered an amended order, terminating the father's parental rights to his two children, J. F. and J. F. Fifty days later, on December 8, 2010, the father filed an "amended motion for new trial."[1] The trial court denied the father's motion, and the father filed this application for discretionary appeal.

We lack jurisdiction. An application for discretionary review must be filed within 30 days of the order to be appealed. OCGA § 5-6-35 (d). Although a motion for new trial generally extends this deadline, such motion is not valid unless filed within 30 days after entry of judgment. See id.; OCGA § 5-5-40 (a); *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990). Because the father failed to file his new trial motion within 30 days of the order terminating his parental rights, the motion is void and did not toll the application deadline. See *Wright*, supra. Accordingly, his application is hereby DISMISSED as untimely. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983).

---

[1] If the father filed a motion for new trial before December 8, 2010, he has not included it with his application for discretionary appeal.

LC# 10J01375, 10J01377

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAY 26 2011

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, JUN 30 2011

The Court of Appeals hereby passes the following order:

A11D0388. IN THE INTEREST OF: J. F. AND J. F., CHILDREN (FATHER).

The father of the above children filed an application for discretionary appeal seeking to challenge the termination of his parental rights. By order entered May 26, 2011, this Court dismissed the application because the father failed to establish that his motion for new trial was timely filed. The father then filed a motion for reconsideration and attached a copy of his motion for new trial, which shows it was filed within 30 days of the entry of the juvenile court's order. See OCGA § 5-5-40 (a). Accordingly, the motion was timely filed and this Court has jurisdiction to consider the application.

The father's motion for reconsideration is therefore GRANTED; this Court's prior order dismissing the application is VACATED; and the application is REINSTATED. Upon consideration of the merits, however, the application for discretionary appeal is hereby DENIED.

LC# 10J01375, 10J01377

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 30 2011

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

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

Kelly K. O. Loomer, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 09, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0389

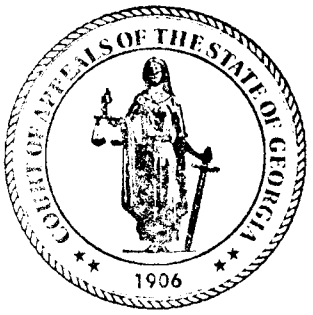
GEORGIA DEPARTMENT OF CORRECTIONS ET AL V.

ROBERT COOK

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

92033

2011SUV263



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 9 2011

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

Holly K. D. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0391

AMY DUKES ET AL V. KEVIN MATTHEWS

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.

94034

2010D1457

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 14 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0392

JAMES MORGAN V. GEORGIA BUNZENDAHL

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.

91033

10CV1566

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 13 2011

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

Kelly K. O. Loomis

Court of Appeals of the State of Georgia

ATLANTA, JUN 13 2011

The Court of Appeals hereby passes the following order:

A11D0393. LETRICE AYANA GHOLSON v. TERENCE BROWN.

Letrice Ayana Gholson filed an application for discretionary review of the trial court's order granting a writ of possession to Terence Brown, Gholson's stepfather. Because the underlying subject matter of this application is a dispossessory proceeding, we lack jurisdiction.

OCGA § 44-7-56 specifically provides that "any judgment" in a dispossessory suit is appealable only if "any such appeal shall be filed within seven days of the date such judgment was entered." Because this application was not filed within seven days of the date of entry of the order granting the writ of possession, it is untimely. Compare *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522 (521 SE2d 456) (1999). Accordingly, this Court lacks appellate jurisdiction, and this application is DISMISSED.

LC# 10CV7476

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 13 2011

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0394

INGLES MARKETS, INC., V. VERGIL S. BENNETT

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

99033

11HV139

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 14 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, MAY 25 2011

The Court of Appeals hereby passes the following order:

A11D0395. GRAHAM et al v. COBB COUNTY, GEORGIA et al;
A11I0251. WASHBURN et al v. GRAHAM et al.

Justin Graham died after being jailed in Cobb County, and his family members, including his brother Jason Graham (collectively, "the plaintiffs"), filed a wrongful death suit against numerous defendants, including Cobb County, Sheriff Neil Warren, Wellstar Health System, Inc., Jill Washburn, and Karen Muirhead. Several defendants moved for summary judgment and, by order entered April 29, 2011, the trial court granted summary judgment to some, but not all, defendants. In Case Number A11D0395, the plaintiffs seeks discretionary review of the trial court's order. In Case Number A11I0251, Washburn and Muirhead seek interlocutory review of the trial court's denial of their motion for summary judgment on sovereign immunity grounds.

The grant of partial summary judgment may be directly appealed. See OCGA § 9-11-56 (h); see also *Whiddon v. Stargell*, 192 Ga. App. 826, 828 (386 SE2d 884) (1989). Moreover, all rulings within that order and any other non-final rulings entered in the case may also be raised as part of such a direct appeal. See OCGA § 5-6-34 (d); *Southeast Ceramics v. Klem,* 246 Ga. 294, 295 (1) (271 SE2d 199) (1980). Under OCGA § 5-6-35 (j), this court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. Accordingly, the plaintiffs' application in A11D0395 is hereby GRANTED. The plaintiffs shall have 10 days from the date of this order to file a notice of appeal with the superior court, if they have not already done so. The superior court is instructed to include a copy of this order in the appellate record.

As the plaintiffs have a right of direct appeal, Washburn and Muirhead have the right to cross-appeal. See *Georgia Dept. of Transp. v. Strickland*, 279 Ga. App. 753, 755 (3) (632 SE2d 416) (2006); OCGA § 5-6-38 (a). Furthermore, the denial of a motion for summary judgment on sovereign immunity grounds may be considered a collateral order, which may be directly appealed. See *Board of Regents v. Canas*, 295 Ga. App. 505, 507 (1) (672 SE2d 471) (2009). For these reasons, Washburn's and Muirhead's application for interlocutory appeal in A11I0251 is also GRANTED. Washburn and Muirhead shall have ten days from the date of this order to file a notice of appeal with the trial court or they may file a cross-appeal in accordance with OCGA § 5-6-38 (a). If Washburn and Muirhead have already filed a notice of appeal, they need not file a second notice. The clerk of the trial court is directed to include a copy of this order in the record transmitted to this Court.

LC# 0812819, 08128134

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 25 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0396

LENORA HUNTER V. EFFINGHAM COUNTY BOARD OF EDUCATION

ET AL

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

97033

SU10CV737

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 15 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0397

ROXANNA GRIFFIN V. DONALD FORD 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.

96033

10C093

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 16 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUN - 9 2011

The Court of Appeals hereby passes the following order:

A11D0398. DONALD WAYNE TOENNIGES v. STATE FARM FIRE AND CASUALTY COMPANY et al.

Donald Wayne Toenniges filed an action against several defendants. After the trial court entered final orders granting summary judgment to some of the defendants and granting the motions to dismiss filed by others, Toenniges, who is a prisoner proceeding pro se, filed an application for discretionary review of the trial court's orders. Although these orders are generally directly appealable under OCGA § 5-6-34 (a), Toenniges properly filed an application pursuant to OCGA § 42-12-8, which requires that an appeal of a civil action filed by a prisoner "shall be as provided in Code Section 5-6-35."

The trial court's orders granting the motions to dismiss were entered on April 5, 2011, and the order granting summary judgment was entered on April 15, 2011. In his application, Toenniges purports to appeal each order, but his application is untimely. Toenniges filed his application 43 days after the orders granting the motions to dismiss and 33 days after the order granting summary judgment. OCGA § 5-6-38 (a) requires that a notice of appeal be filed within 30 days of entry of the judgment on appeal. The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction upon this Court. *Couch v. United Paperworkers Intern. Union*, 224 Ga. App. 721 (482 SE2d 704) (1997). Therefore, Toenniges's appeal is untimely and must be dismissed for lack of jurisdiction.

LC# 10V1399

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN - 9 2011

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

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

Kelly K. A. Loarca , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, MAY 31 2011

The Court of Appeals hereby passes the following order:

A11D0399. SCHERER v. TESTINO.

Tanya M. Scherer f/k/a Tanya M. Testino and Joseph P. Testino divorced in February 2008. In July 2009, Joseph Testino filed a contempt motion, asserting that Scherer had violated provisions of a settlement agreement that had been incorporated into the divorce decree. The trial court found Scherer to be in contempt, and Scherer then filed this application for discretionary appeal.[1]

"[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over divorce and alimony cases." (Punctuation omitted.) *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). See also, Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); *Morris v. Morris*, 284 Ga. 748 (670 SE2d 84) (2008). This application is therefore *TRANSFERRED* to the Supreme Court for disposition.

---

[1] The trial court initially ruled on the contempt motion on May 20, 2010. Scherer filed a motion for reconsideration, and the trial court entered an amended order on April 19, 2011.

LC# 2009D0912

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 31 2011

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0400

READY MIX USA, INC., A/K/A AGGREGATES USA ET AL V.

TERRELL B. ROSS

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.

71034

11CV190

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 14 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUN 17 2011

The Court of Appeals hereby passes the following order:

A11D0401. METLIFE AUTO & HOME et al v. CYNTHIA HARDIN.

MetLife Auto & Home and Rebecca Carter (collectively "MetLife") have filed an application to appeal under OCGA § 5-6-35 (a) (6) to challenge the trial court's denial of their Motion for Additur or in the Alternative for a New Trial. This, however, is MetLife Auto & Home and Rebecca Carter's second attempt to appeal the denial of this motion.

After a jury verdict for $1,000, the trial court issued a judgment for that amount on February 25, 2010. On March 18, 2010, MetLife filed its Motion for Additur or in the Alternative for a New Trial. This motion was denied on October 18, 2010, and MetLife filed a Notice of Appeal challenging that decision on November 17, 2010. That appeal was docketed in this court as Appeal No. A11A1307 on March 24, 2011, and dismissed on April 1, 2011, because MetLife had failed to file an application to appeal as required by OCGA § 5-6-35 (a) (6). The remittitur was returned to the trial court on April 22, 2011.

MetLife did not petition for certiorari to challenge the dismissal, but instead moved to vacate the October 18, 2010 order denying its motion. Although the trial court's order does not state the grounds for the motion to vacate, it found "good reasons" to grant the motion and vacated the October 18th order on April 21, 2011, and the same day issued an identical order denying the Motion for Additur or in the Alternative for a New Trial. For some reason this procedural history was not included in MetLife's application to appeal.

We have no jurisdiction to consider this application to appeal because the order MetLife now seeks to appeal is a nullity.

> The effect of the dismissal of the first appeal from an appealable judgment was to affirm the judgment of the trial court there excepted to and the trial court was without authority to vacate or alter such prior judgment which was res judicata between the parties. When the remittitur from this court was received by the trial court it was the duty of the court 'in good faith' to carry 'into full effect' the judgment of this court. The judgment of affirmance was a final disposition of the case, even if the remittitur was not made the judgment of the trial court. When a final judgment of the trial court is affirmed by this court, and not remanded to the trial court for further proceedings, the controversy is at an end; the rights of the parties, so far as they are involved in the litigation, are conclusively adjudicated. Further proceedings on the case in this court and in the trial court are precluded, and the judgment of the lower court is in full force and effect, precisely the same as if no appeal to this court had been taken. Affirmance of the judgment without condition or direction left the trial court without jurisdiction to entertain or pass on a "special plea" filed after the judgment of affirmance. The result is the same whether the appeal is dismissed or affirmed by the appellate court and [OCGA § 9-11-60] does not require a different result.

(Citation and punctuation omitted). *Aetna Cas. &c. Co. v. Bullington*, 227 Ga. 485, 485-486 (2) (181 SE2d 495) (1971); *Potter-Miller v. Reed*, 302 Ga. App. 199, 200 (2) (690 SE2d 215) (2010).

Accordingly, this application to appeal is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 17 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0402

IN THE INTEREST OF: E. P. S., AND J. C. S., CHILDREN (FATHER)

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

92034

14710J0871

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 15 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0403

ROEHL TRANSPORT, INC., ET AL V. THEODORE HILL, JR.

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

91034

11CV008

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 16 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0404

JAMES WAYNE GERMANY 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.

95034

91R1507

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 15 2011

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

Holly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0405

KENNETH RAY KENT V. MICHAEL L. THURMOND

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

99034

1111011

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 15 2011

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

Holly K. O. Sparrow

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 15, 2011

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 **S11C1710**.

KENNETH RAY KENT v. MICHAEL J. THURMOND

Clerk, Supreme Court of Georgia

JUL 20 2011

Case No. A11D0405
S11T1635
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. S11C1710 Atlanta, November 07, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

KENNETH RAY KENT v. MICHAEL J. THURMOND

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0405

DEC 13 2011

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta December 08, 2011

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 17, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0406

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

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

98034

14711J0216

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 17 2011

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

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

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0407

MAYA DENISE MORROW V. KEVIN ANSON 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.

97034

10CV9210

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 14 2011

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

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JUN 16 2011

The Court of Appeals hereby passes the following order:

A11D0408. THEODORE DAVID v. THE STATE.

Theodore David pled guilty to incest and bigamy in February of 2007, then moved to withdraw his plea four years later in February of 2011. On March 9, 2011, the trial court entered its order denying his motion to withdraw his guilty plea. David filed an application for discretionary appeal 40 days later on April 18, 2011.[1] Although the denial of a motion to withdraw a guilty plea is directly appealable under OCGA 5-6-35 (j),[2] we lack jurisdiction to consider David's application because it was untimely.

To be timely, a notice of appeal must be filed within 30 days of entry of the order on appeal. See OCGA § 5-6-38 (a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. See *Couch v. United Paperworkers Intl. Union*, 224 Ga. App. 721 (482 SE2d 704) (1997). David's notice of appeal was not filed within 30 days of the entry of trial court's order denying his motion to withdraw guilty plea. Accordingly, we lack jurisdiction to consider David's appeal, which is DISMISSED as untimely.

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[1] David filed his application for discretionary appeal in the Supreme Court, which transferred the case to this Court.

[2] See *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008).

LC#CR060554

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JUN 16 2011

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, JUN 15 2011

The Court of Appeals hereby passes the following order:

A11D0409. SHUMATE v. WALMART et al.

Danny E. Shumate seeks discretionary review of an appellate division award he contends was affirmed by operation of law. Because the award was not final, however, appellate review is not warranted.

The relevant facts show that Shumate filed a workers' compensation claim against Wal-Mart. Shumate refused to sign a form WC-207, a release which permits the employer to obtain medical records. Wal-Mart thus filed a motion to compel. By order dated August 26, 2010, the ALJ granted the motion, directing Shumate to provide the signed release. Shumate appealed to the appellate division, which affirmed the award on December 29, 2010. Shumate then appealed to the superior court. Although the superior court apparently conducted a hearing, it did not issue a ruling within the time provided in OCGA § 34-9-104 (b). Shumate now seeks discretionary review of this ruling.

Only final workers' compensation awards or decisions may be appealed to the superior court. See OCGA § 34-9-105 (b). In this case, the order of the appellate division was interlocutory, as Shumate's claim for benefits had not been fully litigated.[1] "The Workers' Compensation Act makes no provision for an appeal to the superior court from a decision by the [appellate division] other than one which grants or denies compensation." (Punctuation omitted.) *Conwood Corp. v. Guinn*, 190 Ga. App. 595 (379 SE2d 621) (1989). The superior court thus was without jurisdiction to

---

[1] Indeed, Shumate has a pending appeal in superior court pertaining to the dismissal of his claim pursuant to OCGA § 34-9-207 (c).

entertain Shumate's appeal. See *Cartwright v. Midtown Hosp.*, 243 Ga. App. 828 (534 SE2d 504) (2000).

Because there is no valid superior court order, this application presents nothing for review. It is therefore DISMISSED. See *Gilman Paper Co. v. Davis*, 230 Ga. App. 364 (496 SE2d 469) (1998).

LC# 2011V73

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 15 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUN 23 2011

The Court of Appeals hereby passes the following order:

A11D0410. AUDREY BROOKS SPURLEY v. ANN THOMAS et al.

Audrey Brooks Spurley sued Ann R. Thomas, Beverly J. Coulter, and Cennell M. Brooks for slander and alleged misuse of a healthcare power of attorney, among other claims. The trial court directed a verdict against Spurley and entered a final judgment in favor of the defendants on April 26, 2011. Spurley filed a both a notice of appeal and this application for discretionary appeal.

The final judgment at issue here is directly appealable under OCGA § 5-6-34 (a) (1). We will grant a timely discretionary application if the lower court's order is subject to direct appeal and the applicant has not already filed a timely notice of appeal. See OCGA 5-6-35 (j). It appears from her application that Spurley has filed a timely notice of appeal in the trial court. Accordingly, this application is superfluous and is therefore DISMISSED.

LC# 2010CV192937

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 23 2011

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0413

ANTHONY BELT V. THE STATE

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

92035

1093372

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 16 2011

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

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0411

ED ROBERT CHRISTENSEN V. ENVIRONMENTAL RESOURCES MANAGEMENT, INC., ET AL

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

71035

2011CV358

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 24 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

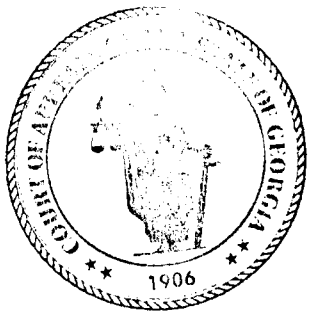
ATLANTA, JULY 28, 2011

The Court of Appeals passed the following order

Case No. A11D0411

ED ROBERT CHRISTENSEN V. ENVIRONMENTAL RESOURCES MANAGEMENT, 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 JUL 28, 2011

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

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

Clerk.

Kelly K. O. Spencer

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: August 10, 2011

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 **S11C1867**.

ED ROBERT CHRISTENSEN v. ENVIRONMENTAL RESOURCES MANAGEMENT, INC. et al

Clerk, Supreme Court of Georgia

AUG 11 2011

Case No. A11D0411
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. S11C1867 Atlanta, March 05, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ED ROBERT CHRISTENSEN v. ENVIRONMENTAL RESOURCES MANAGEMENT, 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0411

2012 MAR 20 PM 2:44

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 20, 2012

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.

Lui C. Hilton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0413

ANTHONY BELT V. THE STATE

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

92035

1093372

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 16 2011

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

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 21, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0414

BILLY JOE LEE V. THE STATE

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

94035

96CR1389

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 21 2011

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

Holly K. A. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, JULY 15, 2011

The Court of Appeals passed the following order

Case No. A11D0415

CLINTON FLANAGAN V. KUBOTA MANUFACTURING OF AMERICA CORPORATION/FEDERAL INSURANCE COMPANY

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

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 15, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JULY 15, 2011

The Court of Appeals passed the following order

Case No. A11D0415

CLINTON FLANAGAN V. KUBOTA MANUFACTURING OF AMERICA CORPORATION/FEDERAL INSURANCE COMPANY

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

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 15, 2011

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

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

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0416

JOHN THOMAS, JR., V. JOE K. VEAL ENTERPRISES, ET AL

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

95035

2011CV036

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 24 2011

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

Kelly K. O. Spanos

Court of Appeals of the State of Georgia

ATLANTA, JUN 28 2011

The Court of Appeals hereby passes the following order:

A11D0417. Darryl C. Najour v. Sandra Najour.

Darryl C. Najour filed an application for discretionary appeal in this Court seeking to challenge a superior court order modifying his child support obligations. Those obligations arose from a 1998 decree finalizing his divorce from Sandra Najour. The Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony. Jurisdiction over actions to modify a divorce decree's child support provisions, therefore, lies in the Supreme Court. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010); *Smith v. Smith*, 254 Ga. 450, 451 (1) (330 SE2d 706) (1985). Accordingly, because this matter involves child support modification, we lack jurisdiction over Darryl Najour's application, which is hereby TRANSFERRED to the Supreme Court for disposition. See *Spurlock*, supra at 513-514.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 28 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0418

RENE J. CLINTON V. CITY OF ATLANTA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98035

2011CV197819

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 28 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 15, 2011

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 **S11C1696**.

RENE J. CLINTON v. CITY OF ATLANTA et al.

Clerk, Supreme Court of Georgia

JUL 20 2011

Case No. A11D0418
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. S11C1696 Atlanta, February 06, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

RENE J. CLINTON v. CITY OF ATLANTA 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0418

RECEIVED IN OFFICE
2012 FEB 21 PM 12:22
CLERK/EXECUTIVE ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 21, 2012

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.

Lisa C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 23, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0419

NELSON TERRELL, SR., V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98036

2008CR48

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 23 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 30, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0420

IN THE INTEREST OF: C. J., C. J., C. J., AND C. J., CHILDREN (MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97035

02810J0993

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 30 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JUN 29 2011

The Court of Appeals hereby passes the following order:

A11D0421. DANIEL E. GEIGER v. CRYSTAL S. KING.

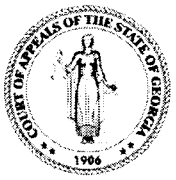
Pursuant to the grant of an out-of-time appeal, Daniel E. Geiger filed this application on June 3, 2011. seeking authority to appeal the trial court's order entered on November 17, 2010, denying his petition to legitimate a minor child. Geiger, however, is not entitled to an out-of-time appeal.

> An out-of-time appeal is a judicial creation that serves as the remedy for a frustrated right of appeal.. It is the means by which a criminal defendant who lost his right to direct appeal of his criminal conviction due to counsel's negligence, ignorance, or misinterpretation of the law may gain that appellate review.

(Punctuation and citation omitted.) *Richards v. State*, 275 Ga. 190, 191 (563 SE2d 856) (2002). Consequently, out-of-time appeals are not permitted in civil cases, *Woodall v. Woodall*, 248 Ga. 172 (281 SE2d 619) (1981), and Geiger's application is untimely because he did not file his application within 30 days of entry of the order denying his petition to legitimate. OCGA § 5-6-35 (d). As compliance with the provisions of OCGA § 5-6-35 is jurisdictional, *Brown v. E.I. du Pont de Nemours & Co.*, 240 Ga. App. 893, 895 (3) (525 SE2d 731) (1999), we cannot consider this

application, and Geiger's application is hereby DISMISSED.

LC# 10CV248



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 29 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, JUN 28 2011

The Court of Appeals hereby passes the following order:

A11D0422. Allen P. Golden v. The State.

On April 27, 2011, the trial court entered an order revoking Allen P. Golden's probation. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). In this case, the thirtieth day after entry of the trial court's order fell on May 27, 2011. Golden, however, did not file this application until May 31, 2011.[1] Because Golden did not file his application within the 30-day period, we lack jurisdiction to consider it, and it is therefore DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC# 03CR0362

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 28 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , Clerk.

[1] Although Golden initially submitted the application earlier, it could not be accepted for filing at that time because it did not contain a proper certificate showing that service had been made on opposing counsel. See Court of Appeals Rule 6.

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0423

JACINTO FLORES V. DEPENDABLE TIRE CO., INC., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93036

11CV00719

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 27 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JUL - 1 2011

The Court of Appeals hereby passes the following order:

A11D0424. GATEWAY HEALTH & REHAB CENTER et al v. SUMMEROUR.

When Gateway Health & Rehab Center filed this application for discretionary appeal, it included a copy of the trial court's order, which was not a stamped "filed" copy as required by Court of Appeals Rule 31 (e). A stamped "filed" copy is required in order for this Court to ascertain that the application was filed within 30 days, which is a jurisdictional prerequisite. See OCGA § 5-6-35 (d) (application must be filed within 30 days of the date of the order appealed); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (OCGA § 5-6-35 requirements are jurisdictional). On June 7, 2011, this Court ordered Gateway Health to supplement its application within 10 days with a stamped "filed" copy of the order to be appealed. We noted that failure to comply with this directive would result in dismissal of the application. More than 10 days have passed since we issued the June 7, 2011 order, and Gateway Health has not submitted a stamped "filed" copy of the trial court's order.[1] Accordingly, this application is hereby DISMISSED.

---

[1] Gateway Health did submit a letter in which it suggested that the order has not yet been filed. In that case, this application is premature and subject to dismissal. See Court of Appeals Rule 31 (a) (application for leave to appeal is from final judgment).

LC# 2010CV1038

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JUL - 1 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 30, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0425

IN THE INTEREST OF: J. F., A CHILD (MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70036

1001239

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 30 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 30, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0426

IN THE INTEREST OF: C. L., C. L., 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.

92036

02810J0734

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 30 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

Court of Appeals of the State of Georgia

ATLANTA, JUL 11 2011

The Court of Appeals hereby passes the following order:

A11D0427. Gregory L. Wilcox v. The State.

On April 5, 2011, the trial court entered an order denying Gregory Lester Wilcox's "Extraordinary Motion to Vacate, Set Aside, or Correct Sentence by a Prisoner in State Custody." Sixty-five days later, on June 9, 2011, Wilcox filed this application for discretionary appeal from that order.[1] Pretermitting whether Wilcox had any right of appeal from the order, his application is untimely. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Wilcox did not file his application within the 30-day period, we lack jurisdiction to consider it, and it is therefore DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC# 06CR028

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow , *Clerk.*

---

[1] Although we initially received Wilcox's application on April 26, 2011, we could not accept it for filing at that time because Wilcox failed to include the filing fee or sufficient pauper's affidavit required by OCGA § 5-6-4 and Court of Appeals Rule 5.

Court of Appeals of the State of Georgia

ATLANTA, JUL - 6 2011

The Court of Appeals hereby passes the following order:

A11D0428. IN THE INTEREST OF: L. B., H. H., & C. H., CHILDREN.

John E. Harris and Kayla J. Harris, pro se, have filed an application for discretionary review of the trial court's order denying their motion to modify/vacate an order terminating their parental rights. The applicants' parental rights were terminated in 2009. They appealed the order to this Court in Case Nos. A10A1409 and A10A1410, and this Court affirmed the judgment of the trial court. See *In the Interest of C. H.*, 305 Ga. App. 549 (700 SE2d 203) (2010). The Harrises filed a petition for certiorari to the Supreme Court, which was denied, and the remittitur from this Court issued to the trial court on February 23, 2011. The Harrises filed their motion to vacate, which was denied on March 9, 2011. The instant application for discretionary review was filed on June 9, 2011. We lack jurisdiction.

Pursuant to OCGA § 9-11- 60 (h), "any ruling by the Supreme Court or the Court of Appeals in a case shall be binding in all subsequent proceedings in that case in the lower court and in the Supreme Court or the Court of Appeals as the case may be." Because this Court affirmed the termination of parental rights in *In the Interest of C. H.*, supra, the Harrises are bound by this decision. This application is therefore DISMISSED as moot. See OCGA § 5-6-48 (b) (3); *Randolph County v. Johnson*, 282 Ga. 160 (1) (646 SE2d 261) (2007) ("An appeal becomes moot if the rights insisted upon could not be enforced by a judicial determination.").

LC#'s 08CV3581, 08CV3580, 09CV4219

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL - 6 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 16, 2011

The Court of Appeals passed the following order

Case No. A11D0428

IN THE INTEREST OF: L. B., H. H., & C. H., CHILDREN
(FATHER & MOTHER)

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 16, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S12C0329 Atlanta, February 27, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN THE INTEREST OF L.B., H.H., & C.H., CHILDREN

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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A11D0428

2012 MAR 20 PM 2:44

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 20, 2012

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.

Lisa C. Hutton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S12C0329

Atlanta February 27, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN THE INTEREST OF L.B., H.H., & C.H., CHILDREN

Although this Court granted petitioners an extension of time until October 17, 2011 in which to file the petition for certiorari, the petition was not filed until October 31, 2011. Therefore, it is untimely and the Court hereby directs that it be dismissed.

Court of Appeals Case No. A11D0428

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.

Lui C. Fulton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 29, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0429
IN THE INTEREST OF: C. D., J. D., K. B., S. B., AND L. 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.

95036
10CV311905

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

JUN 29 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Lawson

Court of Appeals
of the State of Georgia

ATLANTA, JULY 06, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0430

LYNDA Y. MANDT V. WILLIAM RODERICK LOVELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99036

10SUCV1119

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 6 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JULY 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0431

JUAN ANTONIO AGUILERO V. BENTON-GEORGIA, INC

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97036

SU11CV0451

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 12 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 27, 2011

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 **S11C1777.**

JUAN ANTONIO AGUILERO v. BENTON-GEORGIA, INC., et al.

Clerk, Supreme Court of Georgia

JUL 29 2011

Case No. A11D0431
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. S11C1777 Atlanta, February 27, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JUAN ANTONIO AGUILERO v. BENTON-GEORGIA, 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0431

RECEIVED IN OFFICE
2012 MAR 14 PM 1:01
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 13, 2012

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JULY 07, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0432

ALLEN ALPHONZO ADAMS V. BUTTS COUNTY COMMISSIONER ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96036

11ID3

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 7 2011

I certify that the above is a true extract from the minutes 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.

Holly K. A. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, August 17, 2011

Honorable Court of Appeals hereby passes the following order:

A11D0432. ALLEN ALPHONZO ADAMS v. BUTTS COUNTY COMMISSIONER ET AT

Upon consideration of the motion for reconsideration, it is ordered that it be hereby DISMISSED.

96-036
11ID3

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 17 2011

I certify that the above is a true extract from minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JULY 05, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0433

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.

90037

10111806

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 5 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JULY 01, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0434

LUCIEN P. OUANZIN V. ESPN ZONE-THE WALT DISNEY COMPANY ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93037

2011CV198225

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 1 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Ipanaqué

Court of Appeals
of the State of Georgia

ATLANTA, JULY 19, 2011

The Court of Appeals passed the following order

Case No. A11D0434

LUCIEN P. OUANZIN V. ESPN ZONE-THE WALT DISNEY COMPANY ET AL

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 19, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Sparrow

SUPREME COURT OF GEORGIA

Remittitur, Case No. S11C1854 Atlanta, March 05, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LUCIEN P. OUANZIN v. ESPN ZONE-THE WALT DISNEY 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 writ denied.

All the justices concur.

Court of Appeals Case No.
A11D0434

2012 MAR 20 PM 2:44

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 20, 2012

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.

Sui C. Sutton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, JULY 06, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0436

LESTER J. SMITH V. STEVE UPTON, WARDEN

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.

70037

11I04

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 6 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, JULY 08, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0437

GENNESSIA T. DANIEL V. MARK BUTLER, COMMISSIONER ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92037

10CV1021

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 8 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JULY 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0438
ROBERT KLICKA 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.

94037
10SC97466

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 12 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JUL - 6 2011

The Court of Appeals hereby passes the following order:

A11D0439. COSBY v. FIRST TENNESSEE BANK et al.
A11D0440. COSBY v. FIRST TENNESSEE/HORIZON BANK et al.

Anqous Cosby has filed numerous direct appeals and applications for discretionary appeal stemming from his litigation against First Tennessee Bank.[1] Most recently, Cosby filed a direct appeal from a superior court order permitting the appellee bank to recommence eviction proceedings. Because Cosby did not comply with the discretionary appeal procedure, the appeal was dismissed. See A11A1541. In that dismissal order, we informed Cosby that the issues he sought to appeal had become moot based upon our dismissal of a prior appeal in the dispossessory action. Cosby has since filed two new applications for discretionary appeal.

In A11D0439, Cosby seeks to appeal the superior court's February 15, 2011 order purporting to grant summary judgment on his counterclaims. The application was filed on June 20, 2011, which is well beyond the 30 day limit in which to file such application for discretionary appeal. See OCGA § 5-6-35 (d) (to be timely, discretionary application must be filed within 30 days of entry of the order at issue).[2]

In Case Number A11D0440, Cosby seeks discretionary review of the trial court's June 4, 2010 order granting First Tennessee Bank the right to resume eviction

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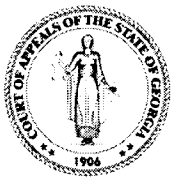
[1] See A09A1548; A09A2027; A09D0063; A11A1540 & A11A1541.

[2] It appears from Cosby's application that the summary judgment motion may be in relation to counterclaims filed in a dispossessory action. To the extent that the case remains a dispossessory action, any appeal – application or otherwise – must be filed within seven days. See OCGA § 44-7-56.

proceedings. Again, the application is untimely. See OCGA § 5-6-35 (d). Because Cosby's applications are untimely, we lack jurisdiction to consider them and thus his applications in A11D0439 and A11D0440 are hereby DISMISSED.

We further note that Cosby has improperly appealed the same issue several times. See *Nally v. Bartow County Grand Jurors*, 280 Ga. 790, 791 (3) (633 SE2d 337) (2006) ("'It is axiomatic that the same issue cannot be relitigated ad infinitum.'"). These applications – as well as Cosby's prior direct appeals – are essentially frivolous. This Court is empowered to impose sanctions upon a party who files a frivolous application or notice of appeal. See Court of Appeals Rule 15 (b). We thus caution Cosby 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.

LC# 07CV03937



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL - 6 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, NOV - 1 2011

The Court of Appeals hereby passes the following order:

A11D0439. COSBY v. FIRST HORIZON BANK, et al.
A11D0440. COSBY v. FIRST HORIZON BANK, et al.

On July 6, 2011, this Court dismissed applications for discretionary appeal filed by Anqous Cosby in Case Number A11D0439 and Case Number A11D0440. In our order, we noted that the applications were frivolous and cautioned Cosby that future filings could result in the imposition of sanctions. First Horizon Bank has filed motions for sanctions in both cases. This Court, in the exercise of its discretion, will not impose sanctions on Cosby at this juncture. Accordingly, the motions for sanctions are hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV - 1 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JUL 11 2011

The Court of Appeals hereby passes the following order:

A11D0441. DAMIAN C. BERNARD v. THE STATE.

Damian C. Bernard has filed a motion to withdraw his application for discretionary appeal in this matter. Bernard's motion is hereby GRANTED, and his application is deemed WITHDRAWN.

LC# 2005CR0037

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 11 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JULY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0442
NICHELLE M. JACKSON V. CORVEY IRVIN

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.

99037
2009RCD1539

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta
JUL 13 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JUL - 8 2011

The Court of Appeals hereby passes the following order:

A11D0443. Christopher Mower v. The State.

On April 28, 2011, the trial court entered an order revoking Christopher Mower's probation. Fifty-three days later, on June 20, 2011, Mower filed this application for discretionary appeal.[1] An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Mower did not file his application within the 30-day period, we lack jurisdiction to consider it, and it is therefore DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC# 08B2627, 09B0808

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL - 8 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , Clerk.

[1] Although Mower initially submitted the application earlier, it could not be accepted for filing at that time because it did not contain a proper certificate showing that service had been made on opposing counsel. See Court of Appeals Rule 6.

Court of Appeals
of the State of Georgia

ATLANTA, JULY 14, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0444

JONAS RAIDER V. JESSICA BAKER ALIFFI

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97037

10V289

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 14 2011

I certify that the above is a true extract from the minutes 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.

Holly K. A. Loumar

Court of Appeals
of the State of Georgia

ATLANTA, JULY 13, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0445

JOSEPH L. HOWARD V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96037

C89F49

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 13 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, JUL 13 2011

The Court of Appeals hereby passes the following order:

A11D0446. TODD M. ENRIGHT v. ROBYN LEE ENRIGHT.

Todd M. Enright seeks leave to appeal the trial court's order, entered June 7, 2011, on Robyn Lee Enright's motion for contempt. The contempt order is entered in a divorce proceeding pending before the trial court. The Supreme Court has exclusive jurisdiction over appeals in divorce and alimony cases. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). And orders specifically relating to the parties' pending divorce are within the appellate jurisdiction of the Supreme Court. See, e.g., *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996) (temporary alimony order in pending divorce proceeding); *Jones v. Jones*, 258 Ga. 353 (369 SE2d 478) (1988) (disqualification order in pending divorce proceeding).

The trial court found Todd Enright in contempt for failure to pay temporary alimony and child support, among other obligations, arising from orders previously entered in the case. As a rule, "the appellate court with subject-matter jurisdiction of the appeal from a judgment has appellate subject-matter jurisdiction of a contempt action in which enforcement of the judgment is sought." (Citation and footnote omitted.) *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, we conclude that the Supreme Court has jurisdiction over this discretionary application. See *Gay v. Gay*, 268 Ga. 106 (485 SE2d 187) (1997) (application for discretionary appeal granted to review contempt citation for violation of temporary order in divorce proceeding); *Tucker v. Tucker*, 164 Ga. App. 477 (298 SE2d 159) (1982) (Court of Appeals did not have appellate jurisdiction to review contempt judgment for failure to pay attorney fees, which were part of temporary alimony) (physical precedent only). Compare *Crute v. Crute*, 208 Ga. 723 (69 SE2d 257)

(1952) (appeal from contempt order for "trifling with the court," unrelated to divorce decree, was within jurisdiction of Court of Appeals). Accordingly, this application is TRANSFERRED to the Supreme Court.

LC# 2008CV1501

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, [redacted] 13 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. D. Spanos *, Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JULY 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0448

KARY L. STARKS V. WELLS FARGO BANK, NA

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71038

11CV2737

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 25 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUL 21 2011

The Court of Appeals hereby passes the following order:

A11D0449. JAMES B. THOMPSON v. THE STATE.

James B. Thompson seeks discretionary review of the trial court's order revoking his probation. However, Thompson has not included in the record the order from which he appeals, which is one of the requirements set forth in OCGA § 5-6-35 (c) to confer jurisdiction upon this Court in cases requiring an application for appeal. Therefore, Thompson's appeal is DISMISSED for lack of jurisdiction.

LC# 04B3288

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 21 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 23, 2011

The Court of Appeals passed the following order

Case No. A11D0449

JAMES E. THOMPSON 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 SEP 23, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUL 25 2011

The Court of Appeals hereby passes the following order:

A11D0451. MAURICE M. SHIELDS v. THE STATE.

Maurice M. Shields seeks leave to appeal the trial court's orders dismissing numerous pro se motions. To the extent that we can discern the pertinent facts, it appears that Shields was indicted in 2009 for, among things, aggravated assault and cruelty to children, and his case remains pending. The trial court dismissed Shields's motions, save for one, on the grounds that Shields was represented by an attorney and was not entitled to represent himself. See *Seagraves v. State*, 259 Ga. 36, 39 (376 SE2d 670) (1989). Shields's motion to proceed pro se remains pending.

The Appellate Practice Act defines a final judgment as one "where the case is no longer pending in the court below." OCGA § 5-6-34 (a) (1). On its face, the application shows that matters remain pending in this case, and that the orders which Shields wishes to appeal are interlocutory. Notwithstanding Shields's designation of his application as discretionary, and pretermitting whether OCGA § 5-6-35 (a) applies, "a party seeking appellate review from an interlocutory order must follow the interlocutory-application subsection, OCGA § 5-6-34 (b), seek a certificate of immediate review from the trial court, and comply with the time limitations therein." (Citation omitted.) *Bailey v. Bailey*, 266 Ga. 832, 833 (471 SE2d 213) (1996).

Because immediate review has not been authorized, this Court lacks jurisdiction to consider this application, and it 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.

July 25, 2011

Holly K. A. Sparrow *, Clerk.*

LC number(s): CR092686

Court of Appeals
of the State of Georgia

ATLANTA, JULY 22, 2011

The Court of Appeals hereby passes thefollowing order:

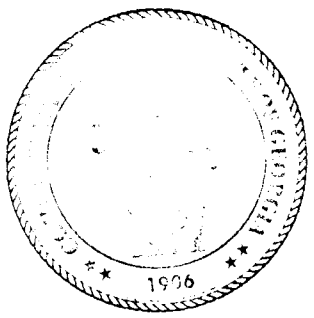
APPLICATION NO. A11D0452

JEREMY HENKE V. LVNV FUNDING, LLC

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94038

06V0837



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 22 2011

I certify that the above is a true extract from the minutes 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.

Holly K. D. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, July 27, 2011

The Court of Appeals hereby passes the following order:

A11D0453. Deborah Griffin v. Variety Stores, Inc. et al.

When Deborah Griffin filed this application for discretionary appeal, she included a copy of the trial court's order, but it was not a stamped "filed" copy as required by Court of Appeals Rule 31 (e). A stamped "filed" copy is required in order for this Court to ascertain that the application was filed within 30 days, which is a jurisdictional prerequisite. See OCGA § 5-6-35 (d) (application must be filed within 30 days of the date of the order appealed); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (OCGA § 5-6-35 requirements are jurisdictional). On July 1, 2011, this Court ordered Griffin to supplement her application within 10 days with a stamped "filed" copy of the order to be appealed. We noted that failure to comply with this directive would result in dismissal of the application. More than 10 days have passed since we issued the July 1, 2011 order, but Griffin has not submitted a stamped "filed" copy of the trial court's order. Accordingly, her application is hereby *DISMISSED*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 27 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

LC number(s): SU11CV154

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 24, 2011

The Court of Appeals passed the following order

Case No. A11D0453

DEBBORAH GRIFFIN V. VARIETY 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 AUG 24, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, JUL 20 2011

The Court of Appeals hereby passes the following order:

A11D0454. WESLEY WILLIAMS v. THE STATE.

Wesley Williams, who is proceeding pro se, filed this discretionary application seeking review of the trial court's denial of his motions for out of time appeal and to void his conviction, and his request for a transcript. 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* in accordance with OCGA § 5-6-35 (j). Williams shall have ten days from the date of this order to file a notice of appeal with the Clayton Superior Court, which is instructed to include a copy of this order in the appeal record transmitted to this Court.

LC# 2008CR0185, 2008CR1755

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 20 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JULY 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0455

ALI S. MUHAMMAD V. MASSAGE ENVY OF GEORGIA, INC

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97038

2009CV178959

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 28 2011

I certify that the above is a true extract from the minutes 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

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, JULY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0456

CHICO HARDEMAN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96038

99CR7283

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 27 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

90-039

Court of Appeals
of the State of Georgia

ATLANTA, JULY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0457

DONNA BURDEN V. GWINNETT HOSPITAL SYSTEM

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

90039

11A04534

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 27 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, JUL 21 2011

The Court of Appeals hereby passes the following order:

A11D0458. Sunday N. Udoinyion v. Michelin North America, Inc.

Sunday N. Udoinyion filed a tort action in state court against Michelin North America, Inc. After the state court awarded summary judgment to Michelin, Udoinyion filed an application for discretionary appeal. We granted that application under OCGA § 5-6-35 (j), and the resulting direct appeal has been docketed as A11A1682 and remains pending here.

Michelin filed a motion in the state court to include in the appellate record the transcript from the summary judgment hearing. Udoinyion objected to the inclusion of the transcript on the grounds that it was inaccurate. Following a hearing under OCGA § 5-6-41 (f), the state court ruled that the transcript was accurate and that it would be included with the appellate record. Udoinyion then filed this application seeking discretionary review of the state court's order.

A review of the materials Udoinyion has submitted with this application indicates that this case does not fall within any of the categories listed in OCGA § 5-6-35(a) requiring an application for discretionary appeal. We therefore GRANT this application 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 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# 09C12075

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JUL 21 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, JULY 29, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0459

GEORGIA DEPARTMENT OF REVENUE V. RICHARD T. MOORE

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.

93039

2010CV188465

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 29 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 01, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0460

IN THE INTEREST OF: J. N. A., A CHILD (FATHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of JUVENILE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71039

10CV3053

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 1 2011

I certify that the above is a true extract from the minutes 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.

Holly K. A. Loomis

Court of Appeals
of the State of Georgia

ATLANTA, JULY 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0461

IN THE INTEREST OF: N. B., A CHILD (FATHER AND MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70039

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 25 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JULY 27, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0462

ENRIQUE M. TAYLOR V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92039

08CR0689

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 27 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Loomis

Court of Appeals of the State of Georgia

ATLANTA, JUL 25 2011

The Court of Appeals hereby passes the following order:

A11D0463. Romeo Dyamond v. The State.

Romeo Dyamond, who is charged with burglary, filed this discretionary application seeking to appeal the trial court's July 29, 2009 order setting his bond at $150,000. However, "[t]he interlocutory appeal procedures set forth in OCGA § 5-6-34 (b) are required to obtain review of an order denying or setting pre-trial bond." *Mullinax v. State*, 271 Ga. 112 (1) (515 SE2d 839) (1999); see also *Howard v. State*, 194 Ga. App. 857 (392 SE2d 562) (1990). Compliance with the interlocutory appeal procedures includes obtaining a certificate of immediate review from the trial court within ten days of entry of the order to be appealed. See OCGA § 5-6-34 (b). Because Dyamond failed to follow the interlocutory appeal procedure, we are without jurisdiction to consider his discretionary application, which is therefore DISMISSED. See *Howard*, supra.

LC# 2009R0048

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 25 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 03, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0464

IN THE INTEREST OF: K. A. C. S., A CHILD (MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91039

14711J0179

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 3 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Lamar

Court of Appeals
of the State of Georgia

ATLANTA, JULY 28, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0465

LEON VAN GELDEREN ET AL V. MOISTUREVISION, INC., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95039

2007CV131480

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 28 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, NOV 16 2011

The Court of Appeals hereby passes the following order:

A11D0465. LEON VAN GELDEREN et al. v. MOISTUREVISION, INC. et al.

On July 28, 2011, this Court granted this application for discretionary appeal. The applicants did not timely file a notice of appeal, and they moved this Court to re-enter its order granting the application. We denied the motion, and the applicants have now filed a "Motion for Clarification and/or Reconsideration." This motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV 16 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 16, 2011

The Court of Appeals hereby passes the following order:

A11D0465. Leon Van Gelderen et al. v. Moisturevision, Inc., et al.

On July 28, 2011, this Court granted this application for discretionary appeal. Pursuant to OCGA § 5-6-35 (g), the applicants were given ten days in which to file a notice of appeal. The notice of appeal was apparently not timely filed, and the applicants filed a motion requesting that this Court vacate its prior order and re-enter the order in accordance with *Cambron v. Canal Ins. Co.,* 246 Ga. 147, 148 (1) (269 SE2d 426) (1980).

In *Cambron*, the Supreme Court recognized that, under OCGA § 15-6-21 (c), the trial court is under a duty to notify the attorney or attorneys of the losing party of its decision. If the trial court's failure to do so deprives a party of a right of appeal, the judgment may be set aside and re-entered, which begins anew the time for filing an appeal. See id. We are unaware of any instance in which an appellate court has re-entered its order in such a manner. Assuming, for the sake of argument, that *Cambron* applies in the appellate context, it does not apply here.

Cambron applies only where a court has failed to notify an interested party of its ruling. Here, the applicants contend that the *Cambron* rule should be applied because the order granting the application was mailed to the incorrect address. The mistake, however, was recognized after the order was issued, and the Court's Applications Clerk called the attorney and left a message informing him that the application had been granted and that an order would be mailed to the correct address. The order was reissued on August 4, 2011. In other words, the attorney was notified by the Court in a timely manner. Under these circumstances, the applicant's motion for re-entry of this Court's order is hereby DENIED.

LC number(s): 2007CV131480

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, SEP 16 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 14, 2011

The Court of Appeals passed the following order

Case No. A11D0466

THERESA JERRY V. UNIVERSITY HEALTH, 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 SEP 14, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 02, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0467

IN THE INTEREST OF: E. E. B. W., A CHILD (FATHER AND 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.

98039

0110TP06478

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 2 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, JULY 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0468

EDDIE JAMES WILSON 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.

97039

93CR0034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 25 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, July 27, 2011

The Court of Appeals hereby passes the following order:

A11D0469. BRENDAN GATES v. SAVANNAH SANDERLIN.

On July 5, 2011, Brendan Gates, a prison inmate proceeding *pro se*, filed this discretionary application seeking to appeal an May 17, 2011, order finding him in contempt of a family violence order. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Gates filed his application more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. OCGA § 5-6-35 (d). Accordingly, Gates's application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 27 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

LC number(s): 10F01714

Court of Appeals of the State of Georgia

ATLANTA, AUG - 1 2011

The Court of Appeals hereby passes the following order:

A11D0470. Jane Campbell v. Mary Margaret Oliver et al.

Jane Campbell seeks discretionary review of, inter alia, the trial court's order denying her motion to set aside a divorce decree. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, ¶ III (6); *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). As the underlying subject matter of this application is divorce, it is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG - 1 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow, *Clerk.*

LC number(s): 07CV3750

Court of Appeals
of the State of Georgia

ATLANTA, JULY 20, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0471

DONNELL HURT V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93040

09CR0147

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 20 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spence

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 08, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0472

RANDALL DAVIS ET AL V. COLONY BANK

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71040

10V201

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 8 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 05, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0473

BEN BONDS V. MOHAWK INDUSTRIES ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70040

11CV58767

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 5 2011

I certify that the above is a true extract from the minutes 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.

Holly K. A. Sparrow *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 10, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0474

IN THE INTEREST OF: D. J., A. J., R. M., A. M., A ND E. M., CHILDREN (MOHTER)

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.

92040

0309TP08375

0409TP08376, 0509TP08377, 0609TP08379

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 10 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 10, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0475

DANIEL ERIC COBBLE V. BRIAN OWENS, COMR.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91040

2009CV166875

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 10 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: August 19, 2011

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 **S12C0049**.

DANIEL ERIC COBBLE v. BRIAN OWENS, COMR.

Clerk, Supreme Court of Georgia

SEP - 8 2011

Case No. A11D0475
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. S12C0049 Atlanta, January 09, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DANIEL ERIC COBBLE v. BRIAN OWENS, COMR.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0475

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta January 26, 2012

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.

Sui C. Sutton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0476

IN THE INTEREST OF: J. L. C., AND J. L. C., CHILDREN (MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95040

1100370

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 4 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0477

WILLIAM MCLEER, JR., V. CARROLL COUNTY BOARD OF COMMISSIONERS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99040

10CV02283

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 15 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, August 10, 2011

The Court of Appeals hereby passes the following order:

A11D0478. BREWTON v. POSS.

Upon consideration of this application for discretionary appeal, it is ordered that it be GRANTED. The Appellant may file a notice of appeal within ten days of the date of this order, and the parties' briefs shall include a discussion of this Court's jurisdiction over this appeal. The clerk of the Superior Court of Madison County is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 10 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

LC number(s): 11MV110

Court of Appeals of the State of Georgia

ATLANTA, August 11, 2011

The Court of Appeals hereby passes the following order:

A11D0479. Walton Jordan v. Word of Truth Family Church, Inc. et al.

Walton Jordan brought a tort action against Word of Truth Family Church, Inc. and others. In an order entered on November 17, 2010, the trial court granted summary judgment to the defendants. On April 5, 2011, Jordan filed a notice of appeal.[1] On June 16, 2011, the trial court ruled that Jordan was not eligible to proceed *in forma pauperis*, and that he had to pay the requisite court costs within ten days or his appeal would be dismissed. Jordan then filed this discretionary application seeking to challenge the June 16 order. Jordan argues that he is, in fact, a pauper.

An order granting summary judgment may be directly appealed, but the notice of appeal must be filed within 30 days of the entry of the order. See OCGA § 9-11-56 (h); OCGA § 5-6-38 (a); *Couch v. United Paperworkers Intl. Union*, 224 Ga. App. 721 (482 SE2d 704) (1997). Because Jordan did not file a notice of appeal within 30 days of the entry of the trial court's summary judgment order, he had no valid appeal from that order. In the absence of a valid appeal, the question of whether Jordan may proceed *in forma pauperis* on appeal is moot. See *Randolph County v. Johnson*, 282 Ga. 160 (1) (646 SE2d 261) (2007) ("An appeal becomes moot if the rights insisted upon could not be enforced by a judicial determination."). And an appeal of an issue that has become moot is subject to dismissal. See OCGA § 5-6-48 (b) (3). This

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[1] Jordan also filed an application for discretionary appeal from the summary judgment order. We dismissed the application, which was docketed as A11D0374, because it had not been timely filed.

LC number(s): 09A01636

application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 11 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 9, 2011

The Court of Appeals hereby passes the following order:

A11D0480. IN THE INTEREST OF: J. G., A CHILD (MOTHER).

The biological mother of J. G., a minor child, filed an application seeking discretionary review of the juvenile court's order transferring custody of J. G. to his grandparents until he reached the age of 18. See OCGA § 15-11-58 (i). The Department of Family and Children Services did not seek termination of the mother's parental rights.

The order transferring custody of the child until he reaches 18 is a final order in a deprivation proceeding that is directly appealable pursuant to OCGA § 5-6-34 (a) (1). See *In the Interest of J. N.*, 302 Ga. App. 631, n. 2 (691 SE2d 396) (2010);[1] *In the Interest of S. J.*, 270 Ga. App. 598, 608 (607 SE2d 225) (2004) ("[a]n order within a deprivation proceeding deciding temporary custody of the child is a 'final order,' within the meaning of 5-6-34 (a) (1), from which a direct appeal lies."). Accordingly, this application for discretionary appeal is GRANTED pursuant to OCGA § 5-6-35 (j). Miles shall have ten days from the date of this order to file a notice of appeal with the trial court. If she has already filed a notice of appeal from the order at issue, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

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[1] The mother appealed the initial order of deprivation in a separate action, which was affirmed on appeal in *In the Interest of J. G.*, 308 Ga. App. 127 (706 SE2d 741) (2011).

LC number(s): 30928

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG - 9 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. D. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 27, 2011

The Court of Appeals hereby passes the following order:

A11D0481. MOHWISH et al v. FRANKLIN et al.

Joseph Alan Mohwish filed a declaratory judgment action against District Attorney Herbert "Buzz" Franklin, Police Chief Sid Adams, and the City of Rossville. According to Mohwish, the defendants are improperly interfering with his rights and obligations pursuant to the grant of a license to conduct raffles. See OCGA § 16-12-22.1. The trial court dismissed Mohwish's complaint, and he filed this application for discretionary appeal.

Under OCGA § 5-6-34 (a) (1), a party may file a direct appeal from "[a]ll final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35." OCGA § 5-6-34 (a) (1). It does not appear that any provision of OCGA § 5-6-35, the discretionary appeal statute, applies here. Consequently, under OCGA § 5-6-34 (a) (1), Mohwish is entitled to pursue a direct appeal of the trial court's order.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Mohwish shall have ten days from the date of this order to file a notice of appeal with the trial court. See OCGA § 5-6-35 (g). If, however, Mohwish has already filed a timely notice of appeal, he need not file another notice. The clerk of the trial court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC number(s): 11SUCV0796

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JUL 27 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 04, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0482

HARVEY B. LESLIE V. GEORGIA COMPOSITE BOARD OF MEDICAL EXAMINERS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93041

2010CV192571

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 4 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 23, 2011

The Court of Appeals passed the following order

Case No. A11D0482

HARVEY B. LESLIE V. GEORGIA COMPOSITE BOARD OF MEDICAL EXAMINERS

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 23, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Loarca

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: September 12, 2011

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 **S12C0079**.

HARVEY B. LESLIE v. GEORGIA COMPOSITE BOARD OF MEDICAL EXAMINERS

Clerk, Supreme Court of Georgia

SEP 13 2011

Case No. A11D0482
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. S12C0079 Atlanta, April 24, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HARVEY B. LESLIE v. GEORGIA COMPOSITE BOARD OF MEDICAL EXAMINERS

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0482

RECEIVED IN OFFICE
2012 MAY -9 PM 1:00
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 09, 2012

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.

Sui C. Sutton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0483

CITY OF ATLANTA ET AL V. PRUDENCE MAGBY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71041

2011CV199381

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 11 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0484

PILGRIMS PRIDE ET AL V. PERTRELL JOHNSON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70041

2011S05434

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 16 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 17, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0485

SARA CAROLINE HARRIS V. EASTMAN YOUTH DEVELOPMENT CENTER 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.

92041

11V5929

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 17 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Loanoa

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 09, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0486

KRISTOPHER SUMMERFORD 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.

94041

2009R204

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 9 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 12, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0487

RICKY LEWIS VINSON V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91041

09CR0467

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 12 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 18, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0488

HERALD J. A. ALEXANDER V. 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 SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95041

2011CV197899

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 18 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 11, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0489

IN THE INTEREST OF: A. T., B. T., T. T., 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.

99041

10JV1910

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 11 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 15, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0490

LEROY COLLINS, JR., V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98041

07R0137

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 15 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 28, 2011

The Court of Appeals hereby passes the following order:

A11D0491. GATES v. THE STATE.

Corey Gates seeks discretionary review of an order entered April 4, 2011, which denied several pro se motions, including a motion for an out-of-time criminal appeal.[1] An order denying a motion for out-of-time appeal may be appealed directly. See, e.g., *Ingram v. State*, 300 Ga. App. 834 (686 SE2d 440) (2009); *Lewis v. State*, 300 Ga. App. 586 (685 SE2d 485) (2009). Accordingly, this application for discretionary appeal is GRANTED pursuant to OCGA § 5-6-35 (j). Gates shall have ten days from the date of this order to file a notice of appeal with the trial court. If he has already filed a notice of appeal from the order at issue, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUL 28 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence, *Clerk.*

[1] Gates filed his application with the Supreme Court, which transferred the matter to this Court.

LC number(s): A90882

Court of Appeals of the State of Georgia

ATLANTA, August 17, 2011

The Court of Appeals hereby passes the following order:

A11D0492. Roberto Baez v. Thurbert E. Baker.

Prisoner Roberto Baez filed an application for discretionary review seeking to challenge the trial court's order, which found that Baez' civil claim lacked any justiciable issue and denied his request to proceed in forma pauperis. The trial court's order was entered on June 16, 2011, but this application was not accepted for filing until July 20, 2011.[1] To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Because Baez filed his application 34 days after the trial court entered its order, we lack jurisdiction over the application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 17 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Connor, *Clerk.*

[1] Baez attempted to file the application earlier, but it was returned based upon his failure to include a sufficient pauper's affidavit. See Court of Appeals Rule 5.

LC number(s): NONE

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: August 31, 2011

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 **S12C0013.**

ROBERTO BAEZ v. THURBERT E. BAKER

Clerk, Supreme Court of Georgia

Case No. A11D0492
Court of Appeals of Georgia

SEP - 1 2011

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S12C0013 Atlanta, January 09, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ROBERTO BAEZ v. THURBERT E. BAKER

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0492

RECEIVED IN OFFICE
2012 FEB -8 PM 4:20

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 08, 2012

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, August 18, 2011

The Court of Appeals hereby passes the following order:

A11D0493. Michael Richard Morgan v. Georgia Department of Pardons and Paroles et al.

Michael Richard Morgan seeks discretionary review of the trial court's order directing the clerk not to file his proposed complaint pursuant to OCGA § 9-15-2 (d).[1]

An order denying filing pursuant to OCGA § 9-15-2 (d) may be appealed directly. See OCGA § 9-15-2 (d); *In re Lawsuits of Carter*, 235 Ga. App. 551 (510 SE2d 91) (1988). Accordingly, this application for discretionary appeal is GRANTED pursuant to OCGA § 5-6-35 (j). Morgan shall have ten days from the date of this order to file a notice of appeal with the trial court. If he has already filed a notice of appeal from the order at issue, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 18 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

[1]Morgan filed his application with the Supreme Court, which transferred the matter to this Court.

LC number(s): NONE

Court of Appeals of the State of Georgia

ATLANTA, August 15, 2011

The Court of Appeals hereby passes the following order:

A11D0494. Michael Richard Morgan v. Aaron Rentals.

Michael Richard Morgan sought to file an *in forma pauperis* civil action against Aaron Rentals.[1] The trial court denied the filing under OCGA § 9-15-2 (d) after finding that Morgan's pleading showed a complete absence of any justiciable issue of law or fact. Morgan then filed this application for discretionary appeal.[2]

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 Morgan's application for appeal is hereby *GRANTED* as required under OCGA § 5-6-35 (j). Morgan shall have ten days from the date of this order to file a notice of appeal with the trial 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, AUG 15 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

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[1] Although Morgan lists additional defendants in this application, the original complaint named only Aaron Rentals.

[2] Morgan filed the application in the Supreme Court, which transferred it here.

LC number(s): NONE

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0495

MARSHALL S. GRILLO, JR., D.O., V. OCONEE REGIONAL MEDICAL CENTER, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71042

10CV44749

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 24 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0495

MARSHALL S. GRILLO, JR., D.O., V. OCONEE REGIONAL MEDICAL CENTER, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71042

10CV44749

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 24 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, AUG 24 2011

The Court of Appeals hereby passes the following order:

A11D0495. MARSHALL S. GRILLO, JR., D.O. v. OCONEE REGIONAL MEDICAL CENTER, INC.

Oconee Regional Medical Center, Inc.'s motion for sanctions is hereby *DENIED.*

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 24 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 16, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0496

NATHANIEL JAMES CROSS V. KENDRA IVESTER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70042

11SUCV106S

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 16 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above above written.

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, August 26, 2011

The Court of Appeals hereby passes the following order:

A11D0497. Gateway Health & Rehab Center et al v. Hazel Summerour.

PMA, a workers' compensation carrier, filed this discretionary application from an award of the State Board of Workers' Compensation Appellate Division, which was affirmed by operation of law in the superior court. PMA filed its petition for review in the superior court on December 6, 2010.[1] The superior court did not hold a hearing on the case until April 26, 2011. On June 30, 2011, the superior court dismissed the petition, explaining that the award had been affirmed by operation of law on February 4, 2011.

Pursuant to OCGA § 34-9-105 (b), the board's decision is affirmed by operation of law if the superior court does not hear the case within 60 days of the date of docketing, unless the delay is the result of a continuance by order of the court. Here, because the petition for review was docketed on December 6, 2010, the decision was affirmed by operation of law on February 4, 2011. This is the date that controls for purposes of OCGA § 5-6-35. See OCGA § 34-9-105 (d).

In order for this Court to have jurisdiction, we must have a timely filed

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[1]In its application, PMA challenges the document used to establish December 6, 2010, as the date of docketing, arguing that it was not authenticated and that there is no evidence it was sent to the parties. This argument is not persuasive. The challenged document was signed by the clerk of the superior court, and indicates that the appeal was filed on December 6, 2010. Further, the document is stamped, with the clerk's stamp, December 6, 2010, 3:39 PM. The document appears, in all respects, to be valid evidence that the case was docketed on December 6, 2010.

application for discretionary appeal. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). An application is timely if it is filed within 30 days of the entry of the order the applicant seeks to appeal. OCGA § 5-6-35 (d). This application was filed on July 28, 2011, more than 30 days after February 4, 2011. Accordingly, it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 26 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 23, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0498

CUMBERLAND CROSSING APTS./SE RESIDENTIAL GROUP

V. FRANK L. ALFRED

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94042

10D7131

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 23 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 29, 2011

The Court of Appeals hereby passes thefollowing order:

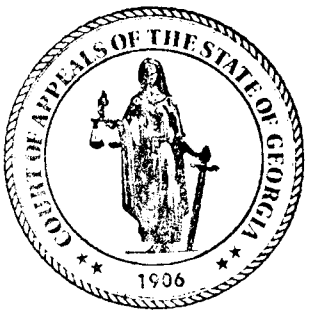
APPLICATION NO. A11D0499

INGLES MARKETS, INC., V. KATHERINE HUTCHINS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91042

2011SUCV403



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 29 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0500

FONZIE PHAN ET AL V. ANDRE & BLAUSTEIN, LLP ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95042

10CV9102

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 25 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spanos

SUPREME COURT OF GEORGIA

Remittitur, Case No. S12C0338 Atlanta, February 06, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

INTERNATIONAL FARMERS MARKET, INC., et al. v. ANDRE & BLAUSTEIN, LLP 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 writ denied.

All the justices concur.

Court of Appeals Case No.
A11D0500

RECEIVED IN OFFICE
2012 FEB 21 PM 12:22
CLERK/LEGAL ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 21, 2012

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, OCT 14 2011

The Court of Appeals hereby passes the following order:

A11D0500, A11D0501. Fonzie Phan et al. v. Andre & Blaustein, LLP et al.

Upon consideration, applicants' motions for reconsideration in the above-styled applications are hereby DENIED. Respondents' motions for frivolous appeal sanctions are also hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, OCT 14 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *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: November 03, 2011

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 **S12C0338**.

INTERNATIONAL FARMERS MARKET, INC., et al. v. ANDRE & BLAUSTEIN, LLP et al.

Clerk, Supreme Court of Georgia

NOV - 7 2011

Case No. A11D0500
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0501

FONZIE PHAN ET AL V. ANDRE & BLAUSTEIN, LLP ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95043

09CV10618

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 25 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Sparrow

Court of Appeals of the State of Georgia

ATLANTA, OCT 14 2011

The Court of Appeals hereby passes the following order:

A11D0500, A11D0501. Fonzie Phan et al. v. Andre & Blaustein, LLP et al.

Upon consideration, applicants' motions for reconsideration in the above-styled applications are hereby DENIED. Respondents' motions for frivolous appeal sanctions are also hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, OCT 14 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S12C0339 Atlanta, February 06, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

FONZIE PHAN et al. v. ANDRE & BLAUSTEIN, LLP 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0501

RECEIVED IN OFFICE
2012 FEB 21 PM 12:22
CLERK'S ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 21, 2012

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.

Lui C. Britton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, August 17, 2011

The Court of Appeals hereby passes the following order:

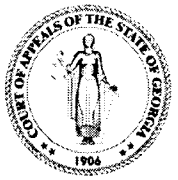
A11D0502. William E. Hailey v. Glenn E. Cooper.

William E. Hailey has filed a pro se application for discretionary appeal. It is unclear what Hailey seeks to appeal. The only order included with his application is a dismissal order, which was entered on November 24, 2009.[1] To the extent Hailey seeks appellate review of this ruling, his application is untimely. See OCGA § 5-6-35 (d) (applications for discretionary appeal must be filed within 30 days of the order on appeal). Although Hailey suggests that other errors may have been committed below, he has attached no additional orders. "Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court." *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009). In the absence of a ruling by the trial court, we have nothing to review. *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010). Because this application for discretionary appeal is untimely from the only order attached, it is hereby DISMISSED.

---

[1] It appears Hailey has already had a direct appeal from this ruling, which was affirmed under Court of Appeals Rule 36. See *Hailey v. Cooper*, A10A0899, decided April 13, 2010.

LC number(s): 2009CV174479



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG 17 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 25, 2011

The Court of Appeals hereby passes the following order:

A11D0503. Sandra Jackson Sheppard v. Carrie U. Garrett.

Plaintiff-Applicant Sandra Jackson Sheppard seeks leave to appeal from the trial court's order of June 30, 2011. In that order, the trial court awarded attorneys fees to the defendant, recognized Sheppard's voluntary dismissal of her claim, and concluded that it retained jurisdiction over the defendant's counterclaims.

Generally, a party must follow the discretionary appeal procedures to appeal the award of OCGA § 9-15-14 attorneys fees. OCGA § 5-6-35 (a) (10). Here, however, the defendant's counterclaims remain pending in the trial court. Because no final judgment has been entered, Sheppard was required to follow the interlocutory appeal procedures. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). Sheppard's failure to follow the interlocutory appeal procedures deprives this Court of jurisdiction to consider this application. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 25 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar, *Clerk.*

LC number(s): 2011CV196734

Court of Appeals of the State of Georgia

ATLANTA, August 25, 2011

The Court of Appeals hereby passes the following order:

A11D0504. Jesus Maria Lopez v. The State.

Jesus Maria Lopez was found guilty of kidnapping and other crimes, and we affirmed his convictions on appeal. *Lopez v. State*, 260 Ga. App. 713 (580 SE2d 668) (2003). He later filed an extraordinary motion for new trial. In an order entered on June 27, 2011, the trial court denied the motion. Thirty-two days later, on July 29, 2011, Lopez filed this application for discretionary appeal.

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 application not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Because Lopez's application was not timely filed, it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 25 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

LC number(s): 01B1941

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: September 09, 2011

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 **S12C0076**.

JESUS MARIA LOPEZ v. THE STATE

Clerk, Supreme Court of Georgia

SEP 13 2011

Case No. A11D0504
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. S12C0076 Atlanta, September 19, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JESUS MARIA LOPEZ 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 stricken from docket.

All the Justices concur.

Court of Appeals Case No.
A11D0504

RECEIVED IN OFFICE
2011 OCT 13 PM 4:09
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 12, 2011

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.

Sui C. Britton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S12C0076, S12T0100

Atlanta September 19, 2011

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

JESUS MARIA LOPEZ v. THE STATE

It appearing that this case was erroneously docketed as a petition for writ of certiorari, it is hereby stricken from the docket, re-docketed as a request for an extension of time to file a petition for writ of certiorari, and designated as Case Number S12T0100.

It is further ordered that the request for an extension of time to file a petition for writ of certiorari is granted. An extension is given until October 9, 2011.

A copy of this order MUST be attached as an exhibit to the document for which the extension is received.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the Minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Lisa C. Fulton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 24, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0505

JAMES JACKSON CARSWELL V. CHERYL CARSWELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96042

2006D0546

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 24 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Loanoa

Court of Appeals
of the State of Georgia

ATLANTA, SEP - 1 2011

The Court of Appeals hereby passes the following order:

A11D0506. MILES T. LEE v. THE STATE.

On July 5, 2011, Miles Lee filed his pro se application for discretionary appeal from the trial court's order of April 5, 2011, denying his "Motion to Set Aside Tainted Conviction."[1] In his application, Lee also challenges the revocation of his probation. Although there is no order revoking probation included in the application materials, it appears that Lee's probation was revoked on July 15, 2009. We lack jurisdiction for two reasons.

First, to be timely, a notice of appeal must be filed within 30 days after entry of the order on appeal. See OCGA § 5-6-38 (a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. See *Rowland v. State*, 264 Ga. 872 (1) (452 SE2d 756) (1995). Second, Lee's motion to set aside his conviction "is not one of the established procedures for challenging the validity of a judgment in a criminal case." *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). Therefore, because Lee failed to file his notice of appeal within the 30-day window and was not authorized to seek relief from his criminal conviction pursuant to a motion to set it aside, his appeal is hereby DISMISSED.

---

[1] Lee filed his application in the Supreme Court, which concluded that it lacked jurisdiction because no judgment had been entered as to Lee's petition for writ of mandamus and transferred the case to this Court.

LC# 2003CR1631

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, SEP - 1 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 22, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0507

VERNEEL WYLEY V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93043

01CR5262

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 22 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Spencer

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 31, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0508

DANNY E. SHUMATE V. WALMART ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71043

2011V0242

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 31 2011

I certify that the above is a true extract from the minutes 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.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 19, 2011

The Court of Appeals passed the following order

Case No. A11D0508

DANNY E. SHUMATE V. WALMART ET AL

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 19, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk. Kelly K. O. Spanos

CLERK'S OFFICE
SUPREME COURT of GEORGIA
244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: October 11, 2011

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 **S12C0245**.

DANNY E. SHUMATE v. WALMART et al.

Clerk, Supreme Court of Georgia

OCT 14 2011

Case No. A11D0508
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. S12C0245 Atlanta, February 06, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DANNY E. SHUMATE v. WALMART 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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A11D0508

RECEIVED IN OFFICE
2012 MAR -7 PM 2:58
CLERK/ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 06, 2012

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.

Lisa C. Hutton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, August 24, 2011

The Court of Appeals hereby passes the following order:

A11I0332, A11I0333, A11D0509, A11D0510. Board of Commissioners of Paulding County, Georgia et al. v. Thad Morrison, III et al.

The Board of Commissioners of Paulding County, Georgia seeks to appeal orders in two related cases awarding attorney fees to Thad and Melissa Morrison. To that end, the Board has filed two applications for interlocutory appeal and two applications for discretionary appeal. Because the cases are still pending below, the Board was required to follow the interlocutory appeal procedure. See OCGA § 5-6-34 (b); *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995) ("Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court."). The discretionary applications, A11D0509 and A11D0510, are therefore DISMISSED for lack of jurisdiction.

The interlocutory applications, A11I0332 and A11I0333, are hereby GRANTED. The Board shall have ten days from the date of this order to file notices of appeal in the superior court. If the Board has already filed such notices, it need not file them again. The clerk of the superior court is DIRECTED to include copes of this order in the records transmitted to the Court of Appeals.[1]

---

[1] If the Board chooses to submit record appendices in accordance with Court of Appeals Rule 18 (a), the Board is responsible for including copies of this order with the appendices.

LC number(s): 06CV2854 & 06CV2855

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG 24 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 24, 2011

The Court of Appeals hereby passes the following order:

A11I0332, A11I0333, A11D0509, A11D0510. Board of Commissioners of Paulding County, Georgia et al. v. Thad Morrison, III et al.

The Board of Commissioners of Paulding County, Georgia seeks to appeal orders in two related cases awarding attorney fees to Thad and Melissa Morrison. To that end, the Board has filed two applications for interlocutory appeal and two applications for discretionary appeal. Because the cases are still pending below, the Board was required to follow the interlocutory appeal procedure. See OCGA § 5-6-34 (b); *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995) ("Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court."). The discretionary applications, A11D0509 and A11D0510, are therefore DISMISSED for lack of jurisdiction.

The interlocutory applications, A11I0332 and A11I0333, are hereby GRANTED. The Board shall have ten days from the date of this order to file notices of appeal in the superior court. If the Board has already filed such notices, it need not file them again. The clerk of the superior court is DIRECTED to include copes of this order in the records transmitted to the Court of Appeals.[1]

---

[1] If the Board chooses to submit record appendices in accordance with Court of Appeals Rule 18 (a), the Board is responsible for including copies of this order with the appendices.

LC number(s): 06CV2854 & 06CV2855

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG 24 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loarca , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 24, 2011

The Court of Appeals hereby passes the following order:

A11I0332, A11I0333, A11D0509, A11D0510. Board of Commissioners of Paulding County, Georgia et al. v. Thad Morrison, III et al.

The Board of Commissioners of Paulding County, Georgia seeks to appeal orders in two related cases awarding attorney fees to Thad and Melissa Morrison. To that end, the Board has filed two applications for interlocutory appeal and two applications for discretionary appeal. Because the cases are still pending below, the Board was required to follow the interlocutory appeal procedure. See OCGA § 5-6-34 (b); *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995) ("Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court."). The discretionary applications, A11D0509 and A11D0510, are therefore DISMISSED for lack of jurisdiction.

The interlocutory applications, A11I0332 and A11I0333, are hereby GRANTED. The Board shall have ten days from the date of this order to file notices of appeal in the superior court. If the Board has already filed such notices, it need not file them again. The clerk of the superior court is DIRECTED to include copes of this order in the records transmitted to the Court of Appeals.[1]

---

[1] If the Board chooses to submit record appendices in accordance with Court of Appeals Rule 18 (a), the Board is responsible for including copies of this order with the appendices.

LC number(s): 06CV2854 & 06CV2855

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG 24 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 29, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0511

JAMES M. MARTIN V. SHEVONDAH FIELDS, MANAGER

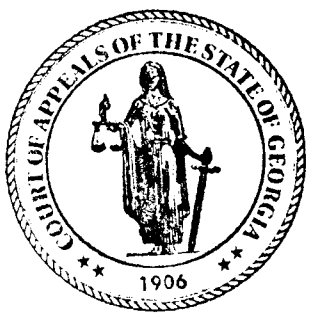
GEORGIA DEPARTMENT OF CORRECTIONS INMATE AFFAIRS

AND APPEALS

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.

70043

NONE



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 29 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spencer

Court of Appeals of the State of Georgia

ATLANTA, August 26, 2011

The Court of Appeals hereby passes the following order:

A11D0512. WILLIAM T. MURRAY v. THE STATE.

William T. 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.[1] Murray has filed an application for discretionary appeal, but it is unclear what he seeks to appeal. To the extent Murray seeks reconsideration of this Court's prior dismissal of his discretionary application, such motion is untimely. See Court of Appeals Rule 37 (b). To the extent Murray seeks to file an out-of-time application, such out-of-time applications are expressly forbidden. See Court of Appeals Rule 37 (g). Accordingly, his application is hereby DISMISSED.

It appears from this application that Murray actually seeks to attack his conviction. He apparently filed a motion for new trial, which the trial court denied. An order denying a motion for new trial is directly appealable and requires no application.[2] The notice of appeal must be filed in the trial court within 30 days of the date of the order Murray wishes to appeal. OCGA § 5-6-38 (a).

To the extent that Murray's right of appeal has been frustrated by counsel, he is informed of the following pursuant to *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995): This appeal has been dismissed because your counsel failed to file a timely notice of appeal. If you still wish to appeal, you may petition the trial court for leave to file an out-of-time appeal. If the trial court grants your request, you will have

---

[1] Murray filed a pro se application for discretionary appeal, challenging his conviction, which this court dismissed as untimely on December 11, 2008.

[2] OCGA § 5-6-34 (a) (1).

LC number(s): 072087

30 days from the entry of that order to file a notice of appeal referencing your conviction. If the trial court denies your request, you will have 30 days from the entry of that order to file a notice of appeal referencing the denial of your request for an out-of-time appeal.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 26 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 22, 2011

The Court of Appeals passed the following order

Case No. A11D0512

WILLIAM T. 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 SEP 22, 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

Holly K. O. Sparrow

Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 25, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0513

LINDA BULLOCK ET AL V. VERTICAL VAR, LLC

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94043

10CV003973

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 25 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. O. Spencer

Court of Appeals
of the State of Georgia

September 2, 2011

ATLANTA,

The Court of Appeals hereby passes the following order:

A11D0514. CARL GOULD v. THE STATE.

On June 11, 2011, the trial court denied Carl Gould's motion for an out-of-time appeal. The grant or denial of such motions are within the discretion of the *trial court*, and appeals of such discretionary decisions are seldom successful. Nonetheless the appellant in this case has followed the controlling statutes, and this court wants to decide – when possible – all appeals on the merits.

Gould filed a timely application for discretionary appeal on July 7, 2011. That filing gave this court jurisdiction.[1] The Prison Litigation Reform Act of 1996 does not apply to criminal cases such as this one.

The paperwork was returned to the appellant for addition of a notary's jurat. The paperwork was returned here July 11 and the appeal dismissed as untimely. But we already had jurisdiction. We GRANT the application for discretionary appeal and

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[1] Gould also filed a direct appeal from the June 10 order. We dismissed that appeal, explaining that because the underlying subject matter is the revocation of his probation, Gould was required to file an application for discretionary review. See Case No. A11A2214.

LC number(s): 03CR23366

give permission for a direct appeal. There is no need for the prisoner to file a notice of appeal per OCGA § 5-6-35 (g). After reviewing appellants motion for reconsideration in appeal No. A11A2214, it is here granted. We will consider the appeal filed in A11A2214 to be the appeal permitted by the present order. It is therefore ordered that appeal A11A2214 is hereby reinstated. The appellant has previously filed a brief in support of the appeal. The state shall have twenty (20) days from the date of this order in which to file its brief. The appellant will have an additional twenty (20) days to file a reply brief after the state has filed its brief pursuant to Court of Appeals Rule 23 (c).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, SEP - 2 2011
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 09, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0515

IN THE INTEREST OF: T.S.G AND N.G. (CHILDREN)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

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Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 9 2011

I certify that the above is a true extract from the minutes 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.

Kelly K. A. Spencer

Court of Appeals of the State of Georgia

ATLANTA, August 22, 2011

The Court of Appeals hereby passes the following order:

A11D0516. KENYON J. HAWKINS v. THE STATE.

On May 12, 2011, the trial court denied Kenyon Hawkins's third motion to lift the condition of banishment that was imposed as a part of his probation. Ninety-two days later, Kenyon Hawkins filed his pro se application for discretionary appeal from the trial court's order. Pretermitting whether Hawkins had any right of appeal from the order, his application is untimely.

OCGA § 5-6-35 (d) provides that applications for discretionary appeal must be filed within 30 days of the order on appeal. Because Hawkins did not file his application within the 30-day period, we lack jurisdiction to consider it, and it is therefore DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 22 2011

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

LC number(s): 09CR00899

Court of Appeals
of the State of Georgia

ATLANTA, SEPTEMBER 01, 2011

The Court of Appeals hereby passes thefollowing order:

APPLICATION NO. A11D0517

IN THE INTEREST OF: C. S., AND C. S., 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.

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Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP - 1 2011

I certify that the above is a true extract from the minutes 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.

Kelly L. A. Spencer