

SPECIAL MOTIONS DOCKET

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09/07/89	119	TST LIMITED INC. V. D. MICHAEL O'PRY
09/21/89	120	WEATHERLY LTD. PARTNERSHIP ET AL V. ANDREW N. GROSS
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01/05/90	121	VINCENT J. SCOTT V. CLERK, FULTON CTY. ST.CT.
02/19/90	122	IN INTEREST OF T.R., A CHILD
02/21/90	123	IN RE: GUY NORMAN, SHERIFF ROCKDALE CTY.
03/07/90	124	SARGIS HOUSTON V. HARRISON D. CAVANAUGH ET AL
03/08/90	125	ST. OF GA. V. JAMES DON COCHRAN
03/08/90	126	ST. OF GA. V. CHARLES P. HANDTE, JR.
02/27/90	127	JIMMY CAGLE V. JOE E. JOHNSTON, CLK, FLOYD CTY, SUP.CT.
03/26/90	128	MARCHELLE V. MOON V. STATE
05/10/90	129	JOHNNY E. TRAYLOR V. ADMIN. OF VET. AFFAIRS
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05/24/90	132	JULIUS JOHNSON V. STATE
07/17/90	133	COX ENTERPRISES INC. V. SOU. BELL TEL & TEL CO.
07/27/90	134	ALAN PARROTT V. STATE
09/18/90	135	JAMES H. BARTON V. J. CHANDLER PETERSON ET AL
10/25/90	136	WALLACE C. REEVES III V. STATE
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(1991)

03/13/91 138 VIVECA FAMBER V. JUDGE CLINTON DEVEAUX
03/21/91 139 WENDY LEATH V. STATE OF GEORGIA
04/02/91 140 VIVECA FAMBER V. CITY OF ATLANTA
04/22/91 141 VERONIQUE DESAULNIERS V. JAMES C. SMITH
05/01/91 142 MARCELLOUS JACKSON V. STATE OF GA.
06/06/91 143 BANK SOUTH, N.A. V. ROSWELL JEEP EAGLE INC.
06/21/91 144 BILLY THOMAS V. STATE
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COUNTY, GA.
08/19/91 147 EVA ROE V. ROY M. ROSE

(1992)

01/28/92 148 ANGELO BERNARD BANKS V. JOHN S. LANGFORD
01/31/92 149 FREDDIE HAWKINS V. STEVE JACKSON
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INDUSTRIAL SUPPLY
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08/05/92 154 OLIVER GILES V. WAYNE SNOW ET AL
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09/15/92 156 ST. OF GA. V. CARROLL PURVIS
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COURT OF APPEALS

(1993)

1/15/93--NO. 158--SUPERSEDEAS--JAMESON V. STATE
2/1/93 --NO. 159--SUPERSEDEAS--WILLIAMS V. STATE
3/19/93--NO. 160--SUPERSEDEAS--BROCKLEBANK V. JANIESON
3/22/93--NO. 161--MANDAMUS --KELLEY V. SMITH
4/15/93--NO. 162--MOTION TO STAY--LONGINO ET AL V. O'ROURKE
4/20/93--NO. 163--SUPERSEDEAS--IN RE: MARY A. STEARNS
6/3/93 --NO. 164--MANDAMUS --CARROLL V. COBB SUP. COURT. ET AL
8/23/93--NO. 165--MANDAMUS --BROCKLEBANK V. WM. A. BALLARD, CLERK
9/9/93 --NO. 166--MANDAMUS --BROCKLEBANK V. R. JOHNSON, SHERIFF
10/1/93--NO. 167--MOTION FOR NEW TRIAL--MOCLAIRE V. STATE
10/14/93--NO. 168--SUPERSEDEAS--CARING HANDS V. GA. D.H.R.
11/19/93--NO. 169--SUPERSEDEAS--CARING HANDS V. GA. D.H.R.
12/23/93--NO. 170--SUPERSEDEAS--STATE V. DEMETRIOS

(1994)

1/26/94--NO. 171--EXT. OF TIME--SINGER GROUP V. CJP ENTERPRISES
1/27/94--NO. 172--MANDAMUS --WHITE V. VAUGHN
1/27/94--NO. 173--SUPERSEDEAS --ADAMS V. JUDGE WM.F.TODD
1/27/94--NO. 174--MANDAMUS --LAMUNYON V. JAMES
2/2/94 --NO. 175--MANDAMUS --HULL V. HONSTED, WARDEN
2/17/94--NO. 176--MANDAMUS --HICE V. ST.BD.OF PARDONS & PAROLES
3/22/94--NO. 177--SUPERSEDEAS --RAINES V. STATE OF GA.
3/24/94--NO. 178--SUPERSEDEAS --SIMMONS V. STATE OF GA. P & P
NO. 179 VOID
5/31/94--NO. 180--SUPERSEDEAS --JONES V. BOOKER
6/21/94--NO. 181--SUPERSEDEAS --IN RE: HERBERT SHAFER
7/1/94 --NO. 182--REDUCTION OF BOND--SAAVEDRA V. STATE OF GA.
7/1/94 --NO. 183--SUPERSEDEAS --CONNELL V. STATE OF GA.
7/15/94--NO. 184--SUPERSEDEAS --UNIVERSAL TAX SYSTEMS V. GRANTHAM
7/27/95--NO. 185--SUPERSEDEAS --BOLDEN JR. V. STATE
9/9/94 --NO. 186--MOTION TO STAY--STATE OF GA. V. PAUKS
9/12/94--NO. 187--SUPERSEDEAS --PARK V. STATE OF GA.
9/13/94--NO. 188--SUPERSEDEAS --TARKENTON V. STATE
9/22/94--NO. 189--COMPLAINT --ANDREWS V. STATE OF GA.
9/28/94--NO. 190--DUI LAYING DRAG -- KINSAUL V. STATE
10/7/94--NO. 191--EXT.FOR TRANSCRIPT--MELLOY V. AUTUMN CHACE HMNRS.
11/3/94--NO. 192--SUPERSEDEAS --MCREE V. STATE
11/7/94--NO. 193--SUPERSEDEAS --GIBBY ET AL V. GRESHAM
12/2/94--NO. 194--WITHDRAWAL OF SUPERSEDEAS --MCREE V. STATE
12/5/94--NO. 195--BOVELAND V. YOUNG WOMEN'S CHRISTIAN ASSOC.
12/21/94--NO. 196--TO STAY WARRANT --GASTON V. STATE
12/29/94--NO. 197--SUPERSEDEAS --INGLE V. STATE

(1995)

1/4/95 -- NO. 198 --SUPERSEDEAS -- TWITTY ET AL V. AKERS
1/12/95-- NO. 199--TO STAY -- HOPKINS ET AL V. HUDGINS & CO.
NO. 200 - VOID
2/8/95 -- NO. 201 -SUPERSEDEAS -- KISER V. STATE
2/10/95-- NO. 202 -SUPERSEDEAS -- EARLY V. STATE
2/10/95-- NO. 203 -SUPERSEDEAS -- ROBINSON V. MILES
2/15/95 - NO. 204 -SUPERSEDEAS -- CONNELL, JR. V. GA. DEPT OF
HUMAN RESOURCES
4/21/95 - NO. 205 -SUPERSEDEAS -- IN RE: BRUCE HARVEY
5/12/95 - NO. 206 -SUPERSEDEAS -- LIVING WORD V. BRIETWEISER &
ASSOC.
5/26/95 - NO. 207 - -- IN RE: HOSPITAL AUTHORITY OF
FLOYD COUNTY
5/31/95 - NO. 208 -SUPERSEDEAS -- CLAYWELL V. STATE
8/14/95 - NO. 209 -MANDAMUS -- CARTER V. STATE
8/24/95 - NO. 210 -SUPERSEDEAS -- WILLIAMS V. STATE
9/22/95 - NO. 211 -SUPERSEDEAS -- VANALSTINE V. VANALSTINE
10/26/95- NO. 212 -EXT.OF TIME -- BAKERY SERVICES V. THORNTON
CHEV.
11/20/95- NO. 213 -PRO SE MOTION- ROBINSON V. STATE OF GA.
12/28/95- NO. 214 -EXT OF TIME -- DOBBS V. WEAVER ET AL
12/28/95- NO. 215 -EXT OF TIME -- PARSONS V. WEAVER ET AL

(1996)

2/1/96 - NO. 216 -SUPERSEDEAS -- RAWLS V. STATE
2/5/96 - NO. 217 -M. TO STAY -- STALEY V. STATE
2/7/96 - NO. 218 -M. TO STAY -- SAULS V. STATE
2/27/96 - NO. 219 -M. TO COMPEL-- BARSH V. RODATUS ET AL
2/29/96 - NO. 220 -SUPERSEDEAS -- VANALSTINE V. MERRITT
3/7/96 - NO. 221 -SUPERSEDEAS -- INTEREST OF:J.N.T., A CHILD
3/8/96 - NO. 222 -SUPERSEDEAS -- SHAW V. THE STATE
3/19/96 - NO. 223 -M. TO STAY -- SMITH V. THE STATE
4/9/96 - NO. 224 -COPY OF REC. - SIMPSON V. WM. L. MARTIN, CLERK
4/22/96 - NO. 225 -JUD. CONDUCT - IN RE: JUD. CONDUCT BY DOUGLAS
COUNTY GRAND JURY
4/24/96 - NO. 226 -SUPERSEDEAS - FELTS V. BENSON
5/17/96 - NO. 227 -SUPERSEDEAS - SECURITY LIFE INS. V. CLARK
5/24/96 - NO. 228 -SUPERSEDEAS - IN RE: WANDA S. JACKSON
5/30/96 - NO. 229 -INJUNCTION - ELECTRONIC DATA V. HEINEMANN
6/7/96 - NO. 230 -TO OBTAIN TRANSCRIPT - HAWKINS V. STATE

6/20/96 - NO. 231 -SUPERSEDEAS - WARREN R. SKILLERN V. STATE
07/12/96- NO. 232 -SUPERSEDEAS - DONALD FELTS V. HERBERT BENSON
07/22/96- NO. 233 -COPIES & EXT.- DIXON V. STATE
08/01/96- NO. 234 -SUPERSEDEAS - HEAD V. SGE MTG. FUNDING CORP.
08/16/96- NO. 235 -SUPERSEDES - SECURITY LIFE INS.CO. V. CLARK,
ET AL
10/16/96- NO. 236 -RULE 40(B) - KELLER V. STATE
10/18/96- NO. 237 -SUPERSEDEAS - KNAPP V. STATE
10/31/96- NO. 238 -SUPERSEDEAS - CHESSMAN V. STATE
12/3/97 - NO. 239 -SIMPLE BATTERY-JACKSON V. STATE
12/13/96- NO. 240 -SUPERSEDEAS -HINCKLEY V. STATE
12/23/96- NO. 241 -RESTRAINING ORDER - TRAMMELL V. CLAYTON COUNTY
12/27/96 -NO. 242 -SUPERSEDEAS -KNIGHTON V. STATE

(1997)

1/16/97 -NO. 243 -PRO SE MOTIONS - GARRETT V. EASTERLING
2/28/97 -NO. 244 -SUPERSEDEAS -GARRETT V. EASTERLING
3/10/97 -NO. 245 -SUPERSEDEAS -WILLIAMSON V. STATE
3/12/97 -NO. 246 -SUPERSEDEAS -STATE V. MATHIS
5/6/97 -NO. 247 -SUPERSEDEAS -GARRATT V. EASTERLING
5/23/97 -NO. 248 -SUPERSEDEAS -JERNIGAN V. STATE
5/27/97 -NO. 249 -SUPERSEDEAS -JERNIGAN V. STATE
6/4/97 -NO. 250 -MOTION TO STAY -O.S.ADVERTISING V. RUBIN ET AL
6/20/97 -NO. 251 -SUPERSEDEAS - SMITH V. STATE
7/1/97 -NO. 252 -MOTION TO STAY -VALUJET V. CARLETON
NO. 253 - VOID
8/8/97 -NO. 254 -MOTION TO STAY -STEWART V. MULCARE
8/29/97 -NO. 255 -MOTION TO STARY - RAPPS V. COOKE
9/2/97 -NO. 256 -SUPERSEDEAS - LIEBMAN V. LEIBMAN
9/23/97 -NO. 257 -TERMINATE TRIAL - DANIEL V. ROBINS, JUDGE
9/26/97 -NO. 258 -SUPERSEDEAS - BRINKLEY V. STATE
10/3/97 -NO. 259 -TRANSMIT RECORD - HARDIN V. RTP TOWNHOUSE ASSO.
10/17/97 -NO. 260 -CONTEMPT SANCTIONS -WRIGHT V. SUNTRUST BANK
12/19/97 -NO. 261 -SUPERSEDEAS - ROBERTS V. ROBERTS

(1998)

01/14/98 -NO. 262 -SUPERSEDEAS - IN INTEREST OF:BRUCE HARVEY
02/26/98 -NO. 263 -SUPERSEDEAS - REHBERGER V. STATE
3/4/98 -NO. 264 -PERFECT TRANS.- DUNN V. STATE
3/11/98 -NO. 265 -SUPERSEDEAS - ROBERTS V. ROBERTS
3/25/98 -NO. 266 - - DUNN V. STATE
4/07/98 -NO. 267 -SUPERSEDEAS - NORMAN v. STATE (G)
6/12/98 -NO. 268 - " --GUILMAIN ET AL v. GILMER COUNTY (D)
7/09/98 -NO. 269 -SUPERSEDEAS - SMITH v. CLAYTON (D)
7/10/98 -NO. 270 - -RAY SR. v. THE STATE (D)
8/5/98 -NO. 271 - M.T.DISMISS - GEN MTRS. v. BAMPOE-PARRY (D)
8/13/98 -NO. 272 - WELDON v. LANE CO. (DISMISSED)
8/31/98 -NO. 273 - SUPERSEDEAS - BELGER ET AL v. KEALY ET AL (D)
12/7/98 -NO. 274 - " IN THE MATTER OF MYRLIN EARLE (G)
12/8/98 -NO. 275 - " " " " " " " (G)

12/31/98 -NO. 276 - DANIELS v. HOWARD (G)

(1999)

3/8/99 -NO. 277 - SUPERSEDEAS - SCOTT v. JOHNSON, CLERK (D)

4/2/99 -NO. 278 MORGAN v. ROSS (D)

4/30/99 -NO. 279 -SUPERSEDEAS - MASTERS, M.D. v. TALBOTT, M.D. (G)

5/17/99 -NO. 280 - " MILLER v. GRIFFETH (D)

5/24/99 -NO. 281 - SHAH v. GOLDBERG ET AL (D)

6/21/99 -NO. 282 - SUPERSEDEAS - BROOKS v. STATE OF GA.

7/6/99 -NO. 283 - WERBIN & TENENBAUM v. MERTZ ET AL (D)

7/6/99 -NO. 284 - SUPERSEDEAS - BAKER v. STATE OF GA. (G)

8/27/99 -NO. 285 - PET. WRIT OF PROHIBITION - KNOTT ET AL v.
SUPERIOR CT. COBB CTY. ET AL (TRANS TO S/C)

9/10/99 -NO. 286 - CONTEMPT - MATTER OF MYRLIN EARLE (G)

10/13/99 -NO. 287 - FAMILY VIOLENCE-JACOBS v. WASHINGTON (DISM.)

10/28/99 -NO. 288 - TO EXPEDITE -HOME DEPOT USA, INC. v. NAP
CHESTERFIELD, LP ET AL

11/22/99 -NO. 289 - SUPERSEDEAS -HOPE MERRITT v. STATE OF GA.

12/13/99 -NO. 290 - SUPERSEDEAS -PATEL v. BRYANT ET AL (D)

12/17/99 -NO. 291 - SUPERSEDEAS - THURMAN C. ROBERTS v. JUDITH D.
ROBERTS (D)

12/23/99 -NO. 292 - SUPERSEDEAS - THURMAN C. ROBERTS v. JUDITH D.
ROBERTS (D)

12/28/99 -NO. 293 - SAMUEL HAY v. JOINT DEV. AUTH.OF JASPER CTY.
ET AL (D)

(2000)

4/7/00 -NO. 294 - DISSOLVING TEMP. RESTRAINING ORDER -
WILBAR DEVELOPERS LLC ET AL v. BLAISS
PRODUCTIONS ET AL (D)

6/7/00 -NO. 295-CONTEMPT-T. KEVIN MOONEY v. SIDNEY L. NATION SR.
(G)

6/21/00 -NO. 296-MOTION TO STAY-ADANA MTG.BANKERS, INC. v.
THE GA. DEPT. OF BANKING & FINANCE

6/21/00 -NO. 297-MOTION TO STAY-ADANA MTG. BANKERS, INC. v.
THE GA. DEPT. OF BANKING & FINANCE

6/23/00 -NO. 298- MARJORIE SEWNATH v. STEELE- DISMISS/DEN

7/27/00 -NO. 299-SUPERSEDEAS - ROBERSON v. ADMINISTRATOR OF THE
ESTATE OF JULIA M. SHIGGS - DENIED

9/12/00 -NO. 300-COMMITMENT ORDER - URGUHART v. STATE - DENIED

10/2/00 -NO. 301-COMMITMENT ORDER - URGUHART v. STATE - GRANTED,
VACATED & REVERSED

10/17/00 -NO. 302-TO STAY - BRANDON REESE v. STATE - TRANS.TO S/C

10/17/00 -NO. 303-TO STAY - JAMES MCDOWELL v. STATE -TRANS.TO S/C

10/30/00 -NO. 304-FOR INJUNCTION-COOK ET AL v. FARMERS BANC -DENIED
11/1/00 -NO. 305-SUPERSEDEAS- IN RE: C. G. A CHILD. DENIED
11/14/00 -NO. 306-TO VACATE STAY ORDER-LONGINO v. PETEREIT(LONGINO)
DENIED
11/20/00 -NO. 307-REDUCE SUPERSEDEAS-SERVICE MASTER CO. v. MARTIN
GRANTED
12/7/00 -NO. 308-TO RECUSE JUDGE-STAGL v. ASSURANCE CO. OF AMERICA
- DENIED
12/14/00 -NO. 309- TO SET ASIDE-MERIWETHER v. WARE STATE PRISON
DENIED

(2001)

01/08/01 -NO. 310- STAY PROCEEDINGS-TRAINER v. STILLS - DENIED
01/31/01 -NO. 311- STAGL v. ASSURANCE CO. OF AMERICA -
03/29/01 -NO. 312- IN RE: J.S.J. - SUPERSEDEAS - DENIED
03/30/01 -NO. 313- ANGELA MORTON v. ALLEN MORTON
05/04/01 -NO. 314- IN RE: J.S.J. - SUPERSEDEAS
06/11/01 -NO. 315- MICHAEL GOODWIN PEGG, JR. v. STATE -SUPERSEDEAS
06/26/01 -NO. 316- IN RE: STILLS v. JOHNSON - SUPERSEDEAS
06/26/01 -NO. 317- JOHNSON v. STILLS - SUPERSEDEAS
06/25/01 -NO. 318- DONNA MARIE., SMITH v. CATHY COX, SEC. OF STATE
ET AL
07/03/01 -NO. 319- ZBOSNIK ET AL v. PARTRIDGE GREENE, INC.
07/13/01 -NO. 320- IN RE: JOEY KYTH HALL - CUSTODY
08/23/01 -NO. 321- VFH CAPTIVE INS. CO. v. CIELINSKI - TO STAY
09/18/01 -NO. 322- AUTOLIFE AUTOMOTIVE INC. v. ALFORD - TO SET
ASIDE
11/13/01 -NO. 323- IN RE ATTY: JOSEPH L. WAITZ - SUPERSEDEAS
11/13/01 -NO. 324- JANICE MARIE CARLISLE v. STATE - TO STAY
11/13/01 -NO. 325- BRIAN STEEL v. STATE - SUPERSEDEAS
11/16/01 -NO. 326- ALEXANDER DOMAN v. THEODORE STAPLETON-SUPERSEDEAS

11/30/01 -NO. 327- HAROLD E. WILLETT v. RUSSELL M. STOOKEY ET AL
TO REMAND

2002

01/22/02 -NO. 328- COLISEUM MED. CENTER v. GA. DEPT. OF COMM. HEALTH
TO STAY

01/31/02 -NO. 329-VICTORIA LITTLE v. STATE - CONTEMPT

03/04/02 -NO. 330-BEERS CONSTR. CO. ET AL v. ATLANTA GIFT MART
SUPERSEDEAS

03/28/02 -NO. 331-ANGELA ELAINE BOUTIN v. STATE - SUPERSEDEAS

04/08/02 -NO. 332-PCC AIRFOILS, INC. ET AL v. SANKS - TO STAY

04/10/02 -NO. 333-PARVAZ AKHTAR ET AL v. MISTY RUBY PARTNERS, LP
SUPERSEDEAS

05/06/02 -NO. 334-JEVILLE DAVIS v. CRAIG SCHWALL - SUPERSEDEAS

05/24/02 -NO. 335- IN RE: HENRY TOLLER, III - CONTEMPT

06/05/02 -NO. 336- SHANNON DEANNE HILL v. JOHNNY WAYNE COOK -
EMERGENCY INJUNCTION\

-NO. 337-

-NO. 338-

MOTIONS DOCKET

DATE 6-7-2000

MOTION DOCKET # 295

CHARGE Contempt

STYLE T. Kevin Mooney, D.C. v. Sidney L. Watson, Sr.

ATTY. FOR APLT Albert A. Myers, III

ATTY. FOR APLE Dan Chapman / Robert H. Stansfield

LOWER CT. JUDGE CJ Sidney Watson
LOWER CT. # _____
COUNTY Rockdale

OUR JUDGE'S CODE _____

BRIEFS FILED NI

JUDGMENT DATE 6/7/00

JUDGMENT Granted

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, JUN -- 7 2000

The Court of Appeals hereby passes the following order:

Motion docket 29⁵.

IN THE MATTER OF T. KEVIN MOONEY

Albert A. Myers, III has filed an Extraordinary Motion for Supersedeas Bond Pending Appeal with this court on behalf of T. Kevin Mooney, an attorney. Mooney was ordered incarcerated pursuant to Judge Sidney L. Nation's order of contempt filed on June 7, 2000, in the Superior Court of Rockdale County.

Myers has attached to his motion a notice of appeal, indicating that an appeal will be filed on the underlying issue of contempt. He shows this court that Mooney was ordered incarcerated for 24 hours and that supersedeas bond was denied.

Upon consideration of this matter, under the authority of OCGA § 5-6-16, and in order to prevent the issue from becoming moot, the motion is hereby GRANTED. It is ordered that Mooney be released from the custody of the Sheriff of Rockdale County instanter and that bond be set in a reasonable amount until such time as the appeal is resolved by this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN - 7 2000

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

MOTIONS DOCKET

DATE 6/21/00

MOTION DOCKET # 296

CHARGE Motion to stay

STYLE Blaine W. Perkins, Jr. v. The Dept. of Banking & Finance

4/26/00-3656

ATTY. FOR APLT J. Gresham R. Owens
Meadow School & Supply
1000 W. 10th St. #300
Wichita, KS 67202

ATTY. FOR APLE Cecilia B. Jones
1000 W. 10th St. #300
Wichita, KS 67202

LOWER CT. JUDGE William G. Long
LOWER CT. # 1999 CV 16834
COUNTY JULIA

OUR JUDGE'S CODE 90-296

BRIEFS FILED _____

JUDGMENT DATE 6/21/00

JUDGMENT granted

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, JUN 21 2000

The Court of Appeals hereby passes the following order:

Motion docket 296, 297

ADAMA MORTGAGE BANKERS, INC. v. THE GEORGIA DEPT. OF BANKING AND FINANCE.

Adama Mortgage Bankers, Inc. has filed a "Motion to Stay Pending Appeal." It seeks an order enjoining the Department of Banking and Finance (the "Department") from revoking its mortgage lending license during the pendency of appeals of the superior court's orders dismissing Adama's petitions for judicial review of two decisions of the department.

We first note the general rule that the filing of a notice of appeal in a civil case acts as a supersedeas upon payment of costs in the trial court.¹ And the effect of a supersedeas is to prevent steps to enforce or carry a judgment into effect. See Walker v. Walker, 239 Ga. 175 (236 SE2d 263) (1977); Int'l Images, Inc. v. Smith, 181 Ga. App. 543, 544 (352 SE2d 846) (1987). But to the extent that the notice of appeal may not have acted as an automatic

¹Unless otherwise notified by the Department, we assume that costs have been paid in the trial court by Adama.

supersedeas in this case, Adama's motion is GRANTED in order to prevent any contested issue from becoming moot. See Court of Appeals Rule 40 (b); OCGA § 9-11-62 (e). Should the Department desire a supersedeas bond, the Department must comply with the provisions of OCGA § 5-6-46 (a) concerning application for such bond in the trial court within 10 days of this order.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 21 2000

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

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

 Clerk.

MOTIONS DOCKET

DATE 6/21/00

MOTION DOCKET # 297

CHARGE Motion to Stay

STYLE Citizens Naty. Bankers, Inc. v ^{the} Bd. Dept of Banking Finance

ATTY. FOR APLT Michael J. Ferrers & J. Joshua R. Archer
Meadows, Jeter & Jigg
Eight Plant Ctr. STE 300
Ct. 30205

ATTY. FOR APLE Oscar B. Teas AAG
40 Capital Sq.
Ct. 30334-1300

LOWER CT. JUDGE Wm. E. Long
LOWER CT. # 01999CV16831
COUNTY Fulton

OUR JUDGE'S CODE _____

BRIEFS FILED _____

JUDGMENT DATE 6/21/00

JUDGMENT Granted

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

MOTIONS DOCKET

DATE 6/23/00

MOTION DOCKET # 298

CHARGE _____

STYLE Margie Swann v. Wm

ATTY. FOR APLT James H. Khan
1876-E Independence Sq.
Memphis TN 38103

ATTY. FOR APLE Russ Johnson
125 Broad St SW
Atlanta GA 30303

LOWER CT. JUDGE James H. Khan
LOWER CT. # 00CV-18646
COUNTY Fulton

OUR JUDGE'S CODE 400-1-8

BRIEFS FILED _____

JUDGMENT DATE June 26th, 2000

JUDGMENT Dismissed & Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, JUNE 26, 2000

The Court of Appeals hereby passes the following order:

MOTIONS DOCKET - 298. SEWNATH v. STEELE.

Appellant Marjorie Sewnath filed an Emergency Motion for Relief pursuant to Court of Appeals Rule 40 (b), requesting that this court review the trial court's order requiring Sewnath to post a supersedeas bond, or "alternatively dismiss the case for lack of subject matter jurisdiction." The appeal is not yet docketed, and this Court does not have the benefit of the record or the transcript of the trial below.

Rule 40 (b) provides in pertinent part:

In the exercise of its inherent power this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power will be exercised sparingly. Generally, no order will be made or direction given in an appeal until it has been docketed in this Court.

To the extent Sewnath seeks a resolution on the merits of her substantive appeal, without affording the opposing side an opportunity to respond and brief the issues involved and without allowing this Court the benefit of the record below, her motion is

hereby DISMISSED as it is not an authorized motion under Court of Appeals Rule 40 (b).

To the extent Sewnath seeks review of the trial court's imposition of a supersedeas bond, we find no basis in the limited materials before us on which to find error on the part of the trial court. "Under OCGA § 5-6-46 the trial court has the discretion to fix the amount of the bond when a motion is filed requesting a supersedeas bond." Cloud v. Georgia Cent. Credit Union, 214 Ga. App. 594, 597 (7) (448 SE2d 913) (1994). Without benefit of the record and trial transcript in this case, we cannot determine whether the trial court has abused its discretion. Sewnath's Emergency Motion for Relief is therefore DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 26 2000

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

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

Clerk.

W. Z. Martin, III

MOTIONS DOCKET

DATE 7/27/00 MOTION DOCKET # 299

CHARGE Supersedeas

STYLE David Robinson v. Administrator of the Estate of Julia M. Shigley

ATTY. FOR APLT David Robinson
Box 9304
Savannah 31412

ATTY. FOR APLE Dana J. Brown
Kusman, Burns & Callaway, P.C.
Box 9149, Savannah 31412

LOWER CT. JUDGE Harris Lewis
LOWER CT. # S-3097
COUNTY Chatham

OUR JUDGE'S CODE 93-299

BRIEFS FILED 8/2/00 response

JUDGMENT DATE 8/3/00

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 6384 David Robinson 7/27/00

MOTIONS DOCKET

DATE 9-12-00

MOTION DOCKET # 300

CHARGE Commitment Order - mental Evaluation

STYLE Gemine Maria Uguhart v. The State

ATTY. FOR APLT Joseph R. Neal, Jr.
1023 Brookwood Drive
Augusta, GA 30909

ATTY. FOR APLE Daniel Craig, Dist. Atty.
551 Greene St.
Augusta, GA 30901

LOWER CT. JUDGE William M. Fleming
LOWER CT. # Richardson Superior 2000 CR 623
COUNTY Richardson & Columbia

OUR JUDGE'S CODE 93 -

BRIEFS FILED NT's; Amended (9-14) (2d Amd 9-15) resp 9/19
resp 9/20

JUDGMENT DATE September 15, 2000

JUDGMENT Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

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

ATLANTA,

SEP 15 2000

The Court of Appeals hereby passes the following order:

MD300. URQUHART v. THE STATE.

Defendant's motion having been read and considered, and it appearing that no transcript of the proceedings exists for this Court to consider whether the trial court has abused its discretion in the above-styled matter, the motion is hereby **DENIED**.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 15 2000

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

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

Clerk.

William L. Martin, III

MOTIONS DOCKET

DATE 10/2/00

MOTION DOCKET # 301

CHARGE Commitment order - Mental Evaluation

STYLE Benine Maria Urquhart v. St. of Ga.

ATTY. FOR APLT Joseph R. Neal, Jr.
1023 Brookwood Dr.
Augusta 30909

ATTY. FOR APLE Daniel Craig
551 Green St
Augusta 30901

LOWER CT. JUDGE Wm M. Fleming
LOWER CT. # 3000CR623
COUNTY Columbia

OUR JUDGE'S CODE 71-301

BRIEFS FILED _____

JUDGMENT DATE October 2, 2000

JUDGMENT Motion Granted, order vacated & reversed

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA,

OCT -2 2000

The Court of Appeals hereby passes the following order:

MD301. GENINE MARIA URQUHART v. THE STATE.

Pursuant to Court of Appeals Rule 40 (b), Genine Maria Urquhart has filed an emergency motion asking this Court to vacate and reverse the Order for Mental Evaluation and Committal entered by the Superior Court of Columbia County on September 12, 2000, so as to prevent a contested issue in this case from becoming moot. The motion is hereby GRANTED for the following reasons.

Urquhart was indicted for theft by taking and was released on bond. Prior to trial, she filed a notice of intent to present a defense of insanity at the time of the offense. A hearing was scheduled to consider the State's request under OCGA § 17-7-130.1 for an order requiring Urquhart to undergo a psychiatric evaluation. At this hearing held on September 8, 2000, the court received two affidavits indicating that in 1993 and 1995 Urquhart had been hospitalized for mental illness, one of which arose from an attempted suicide. The court ordered that a mental evaluation be completed on Urquhart.

But over Urquhart's vigorous objection, the court further ordered (pursuant to the order prepared by the State) that Urquhart be **confined**, pending the mental evaluation, in the Columbia County Detention Center, and that Urquhart be **committed** to the Georgia Regional Hospital or the Central State Hospital once she could be admitted. When presented with the fact that Urquhart was out on bond, the court without explanation announced orally it was surrendering the bond. When Urquhart pointed out she had done nothing to violate the bond, the court stated it was not going to debate the matter with counsel. When Urquhart offered to voluntarily submit to an evaluation, the court stated it was "not going to listen to that." When Urquhart pointed out that the order prepared by the State found that she was a danger to the community, and that there had been absolutely no evidence of such, the court stated that it would amend the order and find that she was a danger to herself.

The court acted completely without authority in ordering the confinement and the commitment. No statute, regulation, or case law allows a court to so summarily order the confinement and commitment of an individual who has chosen to exercise her right to present a defense of insanity. The fundamental concepts of due process and the presumption of innocence are clearly violated by such actions.

It is hereby ORDERED that the Order for Mental Evaluation and Committal, signed September 8, 2000 and filed in Columbia County

Superior Court on September 12, 2000, is VACATED AND REVERSED. It is further ORDERED that Urquhart be immediately released, instanter, from confinement, commitment, or any other detention.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 2 2000

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

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

Clerk.

Will. L. Martin, III

MOTIONS DOCKET

DATE 10/17/00

MOTION DOCKET # 302

CHARGE Motion to Stay

STYLE Brandon^{vs} Reese v. State of Ga.

ATTY. FOR APLT Wm C Heard
250 Hammond Dr. Bldg 5
Atlanta 30328

ATTY. FOR APLE Joe Prolet Solicitor
180 Memorial
at 30335

LOWER CT. JUDGE Lennwood A Jackson
LOWER CT. # 201331
COUNTY City Ct of Atl.

OUR JUDGE'S CODE 71-302

BRIEFS FILED 10/18/00 response

JUDGMENT DATE 10/18/00

JUDGMENT Transferred to s/c

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 10/17/00 7242 Headlines Mktg

Court of Appeals of the State of Georgia

ATLANTA, OCT 18 2000

The Court of Appeals hereby passes the following order:

MD 302. THE STATE v. REESE.

The above-named defendant has filed a motion "FOR EMERGENCY ORDER TO STAY PROCEEDINGS IN THE CITY COURT OF ATLANTA." As the underlying application for appeal challenging the constitutionality of the City Court of Atlanta has been docketed in the Supreme Court under the authority of the Ga. Const. of 1983, Art. VI, Sec. VI, Par. II, it appears that this court is without subject matter jurisdiction to rule upon the motion. As the defendant's application is docketed in the Supreme Court of Georgia, Application No. S01I0157, it is hereby ORDERED that the related motion is TRANSFERRED to that court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2000

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

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

Will. Z. Mat. [Signature]

Clerk.

MOTIONS DOCKET

DATE 10/17/00

MOTION DOCKET # 303

CHARGE Motion to Stay

STYLE James R. McDowell v. St. of GA

ATTY. FOR APLT Wm C. Head
750 Hammond Dr. Bldg 5
atl 30328

ATTY. FOR APLE Joe Dwyer, Solicitor
180 Memorial Dr.
atl 30335

LOWER CT. JUDGE Lawrence A. Jackson
LOWER CT. # 201176
COUNTY City Ct. of atl

OUR JUDGE'S CODE 71-303

BRIEFS FILED 10/18/00 response

JUDGMENT DATE 10/18/00

JUDGMENT Transferred to S/C

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 10/17/00 7243 Headlines Hktg

Court of Appeals of the State of Georgia

ATLANTA, OCT 18 2000

The Court of Appeals hereby passes the following order:

MD 303. THE STATE v. MCDOWELL.

The above-named defendant has filed a motion "FOR EMERGENCY ORDER TO STAY PROCEEDINGS IN THE CITY COURT OF ATLANTA." As the underlying application for appeal challenging the constitutionality of the City Court of Atlanta has been docketed in the Supreme Court under the authority of the Ga. Const. of 1983, Art. VI, Sec. VI, Par. II, it appears that this court is without subject matter jurisdiction to rule upon the motion. As the defendant's application is docketed in the Supreme Court of Georgia, Application No. S01I0130, it is hereby ORDERED that the related motion is TRANSFERRED to that court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 18 2000

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

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

Will. Z. Martin Clerk.

MOTIONS DOCKET

DATE 10/30/00 MOTION DOCKET # 304

CHARGE Motion for Disjunction

STYLE Louise M. Cook et al v. Farmers Bancshares, Inc. et al

ATTY. FOR APLT Craig M. Frankel
Frankel & Assoc. LLC
The Grand, Suite 2840
75 Fourteenth St. NE
Atlanta, Ga 30309

ATTY. FOR APLE John M. Gross
Podell, Goldstein, Hayes & Murphy LLP
16th Floor, 191 Peachtree St. NE
Atlanta 30303

with L. Tribble
Durden Kaufold Rice & Tribble
109 S. 5th person St
Durham 27603, Duplin 31040

LOWER CT. JUDGE Phillip R. West
LOWER CT. # Superior Ct Selfair
COUNTY Selfair

OUR JUDGE'S CODE 71-304

BRIEFS FILED _____

JUDGMENT DATE 10/31/00

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

MOTIONS DOCKET

DATE 11/1/00

MOTION DOCKET # 305

CHARGE Supersedeas

STYLE In re: C.G. a child

ATTY. FOR APPLT Galen A Mirate
Melinda M. Katz Box 2351
210 S. Broad St Valdosta 31604-2351
Thomasville 31792

ATTY. FOR APPE Geo. M. Saliba
1088 W. Patterson St
Valdosta 31603

LOWER CT. JUDGE D. Wayne Ellerbee
LOWER CT. # 98 CVA 8
COUNTY Brooks

OUR JUDGE'S CODE 91-305

BRIEFS FILED 11/2/00 resp. 11/2/00 M.F. Sanctions

JUDGMENT DATE 11/1/00

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 11/1/00 #1373 Galen A Mirate

MOTIONS DOCKET

DATE 11/14/00

MOTION DOCKET # 306

CHARGE To Vacate Stay Order

STYLE John T. Longino v. Bettina R. Peterreit (Longino)

ATTY. FOR APLT John T. Longino FAX 706 695-1594
Box 310
Zelljays, Ga 30540 706/695-7780

ATTY. FOR APLE Michael McChesney
Ste 100, 244 Roswell Rd.
Marietta, Ga 30060

LOWER CT. JUDGE Jon B. Wood
LOWER CT. # 00CT94
COUNTY Murray

OUR JUDGE'S CODE 91-306

BRIEFS FILED _____

JUDGMENT DATE 11/22/00

JUDGMENT denied

M.F.R. FILED 11/27/00 / denied 11/30 RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 22 2006

The Court of Appeals hereby passes the following order:

MOTIONS DOCKET - 306. LONGINO v. PETEREIT.

John T. Longino filed an emergency motion for supersedeas of the trial court's order granting an injunction. He has filed a notice of appeal of the trial court's order, but this does not serve as a supersedeas in an injunction case. Citizens to Save Paulding County v. City of Atlanta, 236 Ga. 125 (223 SE2d 101) (1976). In order to prevent his appeal from becoming moot, it was incumbent upon Longino to seek a supersedeas from the trial court. Jackson v. Bibb County School Dist., 271 Ga. 18, 19 (515 SE2d 151) (1999). As Longino has failed to exhaust this available remedy, his motion for emergency supersedeas in this Court is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 22 2006

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

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

Will. Z. Mart... Clerk.

MOTIONS DOCKET

DATE 11-20-00

MOTION DOCKET # MD 307

CHARGE Reduce Suspended

STYLE The Service Master Company, L.P. v. Ray D. Martin

ATTY. FOR APLT James C. Grant & Jeffrey J. Swart
1201 W. P'tree St. atl 30309-3424

Ms. C. Hilton D. Janner & Robert D. Hayes & Michelle J. Cole
191 P'tree St. atl 30303

ATTY. FOR APLE Francis X. Moore / Byrne, Moore & Davis, P.C.
Ste 1460, Tower 100, 3390 P'tree Rd. NE
atl 30326

LOWER CT. JUDGE M. Gino Brogdon

LOWER CT. # _____

COUNTY Fulton

OUR JUDGE'S CODE 91-307

BRIEFS FILED NT's 11-20-00

JUDGMENT DATE 11/29/00

JUDGMENT Granted

M.F.R. FILED 11/30/00 RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 29 2000

The Court of Appeals hereby passes the following order:

MOTION DOCKET 307. THE SERVICE MASTER TIRE COMPANY ET AL v. MARTIN

The ServiceMaster Tire Company, L. P. and its successor, The ServiceMaster Company, petitioned this Court for an emergency reduction in a supersedeas bond pending the outcome of an appeal from a judgment in favor of Ray D. Martin. We agree that this issue will effectively become moot upon resolution of the underlying appeal. Therefore, pursuant to Rule 40 (b), we exercise our emergency power and order the trial court to withdraw the original supersedeas bond and enter a new bond in the amount stated below.

Following a suit on the issue of damages only, the jury awarded Martin \$814,584.79 in compensatory damages and \$135,000,000 in punitive damages. While ServiceMaster's motion for new trial was pending, the trial court granted Martin's request for a supersedeas bond of \$168,000,000. ServiceMaster filed this bond on

December 1, 1999. Service Master concedes this amount represented the full amount of the judgment plus two year's future interest. Six months later, the trial court entered an order pursuant to OCGA § 51-12-12 which granted ServiceMaster's motion for new trial in the event that Martin did not accept the court's proposed remittitur of damages. On May 23, 2000, Martin filed an "Election of Remittitur," accepting the trial court's proposal. On June 1, 2000, the trial court entered final judgment for Martin, with remitted compensatory damages of \$461,440 and remitted punitive damages of \$45,000,000. On that same date, ServiceMaster timely filed its notice of appeal from this order. Martin cross-appealed, challenging the remittitur. On June 20, 2000, ServiceMaster asked that the original bond be withdrawn and replaced with a reduced bond reflecting the remittitur. On October 13, 2000, the trial court denied the request without explanation and this petition followed. Martin has filed no response with this Court.

As a threshold matter, the trial court retained jurisdiction to modify the amount of the supersedeas bond. As the Georgia Supreme Court has explained:

[W]hile a trial court is without jurisdiction to modify or enforce a judgment during the period of supersedeas, it has jurisdiction to consider other matters in the case and even to conduct a trial, subject to the peril that a decision which conflicts with that of the appellate court will be made nugatory.

(Emphasis added.) Fairburn Banking Co. v. Gafford, 263 Ga. 792, 794 (439 S.E.2d 482) (1994). ServiceMaster is not seeking to change the judgment, but pursuing "supersedeas relief, a subject concerning which the trial court had not lost jurisdiction." Bank South, N. A. v. Roswell Jeep Eagle, Inc., 200 Ga. App. 489 (1) (408 SE2d 503) (1991).

OCGA § 5-6-46 (a) provides that an appellee shall be entitled to the posting of a supersedeas bond upon motion. The purpose of the bond is to protect a money judgment "from non-satisfaction in the event appellant has insufficient assets to satisfy the judgment when the judgment is affirmed on appeal." Bank South, N. A. v. Roswell Jeep Eagle, 200 Ga. App. at 489 (1). The amount of the bond is left to the trial court's discretion and will not be disturbed by this Court absent a showing of abuse. Cloud v. Georgia Central Credit Union, 214 Ga. App. 594, 597-598 (7) (448 SE2d 913) (1994). In setting the amount,

the trial court shall require that supersedeas bond be given with such surety and in such amount as the court may require, conditioned for the satisfaction of the judgment in full, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or is found to be frivolous, and to satisfy in full such modification of the judgment and such costs, interest, and damages as the appellate court may award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages for delay, unless the court after

notice and hearing and for good cause shown fixes a different amount or orders security other than the bond.

OCGA § 5-6-46 (a).

Upon reviewing the record in this case, we saw no financial justification or other "good cause" for posting a bond which exceeds by over \$100,000,000 the amount necessary to cover the remitted judgment in full, together with costs, interest, and damages for delay. We are mindful that Martin is challenging in his cross-appeal the remittitur and is seeking the original amount of damages. However, under existing precedent, "Georgia retains the general rule at common law, that a plaintiff cannot accept a remittitur and then appeal the entry of the lesser judgment." Interagency v. Danco Financial Corp., 203 Ga. App. 418, 429-430 (417 SE2d 46) (1992), citing Sparks v. Aetna Ins. Co., 62 Ga. 198 (1879). Although it is possible that this Court may revisit this rule on appeal, it is unreasonable to assume, for the purposes of setting the amount of supersedeas bond, that it would reverse long-standing precedent originally set by the Georgia Supreme Court. Consequently, we direct the trial court to enter an order withdrawing the original bond and setting a new bond in an amount, to be determined by the trial court, which will protect the remitted judgment, including any interest, costs, and damages for delay.

ServiceMaster also argues that OCGA § 5-6-46 (e) limits the "supersedeas bond for the punitive damages portion of the judgment to \$25,000,000." This subsection became effective on March 30, 2000, two months before the judgment appealed was filed but five months after the original judgment was entered. There are no cases construing this Code section and we have found no Georgia precedent which states whether supersedeas rules are substantive or procedural in nature and, therefore, amenable to retroactive application. Because the law on this point has not been settled by a panel of this Court, we decline to exercise our emergency power to further reduce the supersedeas bond on this basis.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 29 2000

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

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

William Z. Mat...

Clerk.

MOTIONS DOCKET

DATE 12/7/00

MOTION DOCKET # Met. Doc 308

CHARGE _____

STYLE Kevin A. Stagl v. Assurance Co. of America

ATTY. FOR APLT Kevin A. Stagl
Box 1335
Wahlonga, 30555

ATTY. FOR APLE Clayton Farnham (New Eckel Farnham)
880 W. 8th Ave. St.
Cal. 70309

LOWER CT. JUDGE Ernest H. Woods
LOWER CT. # 00CV 223 DB
COUNTY Habersham

OUR JUDGE'S CODE 70-308

BRIEFS FILED _____

JUDGMENT DATE 12/8/00

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 12/7/00 7915 Kevin Stagl

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

DEC - 8 2005

ATLANTA,

The Court of Appeals hereby passes the following order:

**MOTION DOCKET NO. 308. KEVIN A. STAGL v. ASSURANCE COMPANY OF
AMERICA**

Kevin Stagl has filed an emergency motion under Court of Appeals Rule 40 (b) to recuse the trial judge from further proceedings in this case due to various discovery orders which the court entered adverse to Stagl. Because it does not appear from the record that Stagl has presented legally sufficient grounds for recusal of the trial judge, or that the court erred in denying these motions, or that the issues sought to be raised by Stagl at this juncture could not be raised on direct appeal of a final judgment, the motion is denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC - 8 2005

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

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

Will Z. Mart Clerk.

MOTIONS DOCKET

DATE 12/14/00

MOTION DOCKET # 309

CHARGE To Set aside

STYLE Robert S Merritt v. Ware State Prison

ATTY. FOR APLT Robert S Merritt EF 429567
Ware State Prison
3620 Harris Rd, Waycross 31503

ATTY. FOR APLE Rudyard M. Hays ADA
Merritts Ch Chs, Box 570
Greenville 30222

LOWER CT. JUDGE A. Sullivan Baldwin II
LOWER CT. # 99 CR 259
COUNTY Merritts

OUR JUDGE'S CODE 70-309

BRIEFS FILED _____

JUDGMENT DATE 12/18/00

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, DEC 18 2000

The Court of Appeals hereby passes the following order:

MOTION DOCKET NO. 309. ROBERT L. MERIWETHER v. THE STATE.

Meriwether was convicted of numerous criminal offenses in the Superior Court of Meriwether County. He has filed a notice of appeal in the superior court. The appeal has not yet been docketed. Meriwether has now filed an "emergency motion for relief." In the motion, he contends that the superior court erred in denying his motion for new trial. He asks this court to reverse the order of the superior court denying his motion for new trial. Because it does not appear that grant of the emergency motion is "necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot," the motion is denied. See Court of Appeals Rule 40 (b).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 18 2000

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

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

Will. Z. Martin

Clerk.

MOTIONS DOCKET

DATE 1/8/01

MOTION DOCKET # 310

CHARGE Stay Proceedings

STYLE Steven Brian Framer v Jerry Keith Stills

ATTY. FOR APLT Steven Framer
Hancock St. Mason
Box 329, Sparta 31087

ATTY. FOR APLE Genevieve Frazier (Houser & Frazier)
401 Broad St, Ste 300, Box 906
Rome 30162-0906 706/802-0251

LOWER CT. JUDGE Edward D. Lukemire
LOWER CT. # 97V60169L
COUNTY Houston

OUR JUDGE'S CODE 94-310

BRIEFS FILED 1/22/01 resp.

2/23/01 MTD
3/5/01 TO Stay answer
3/7/01 denied
3/16/01 MTA.

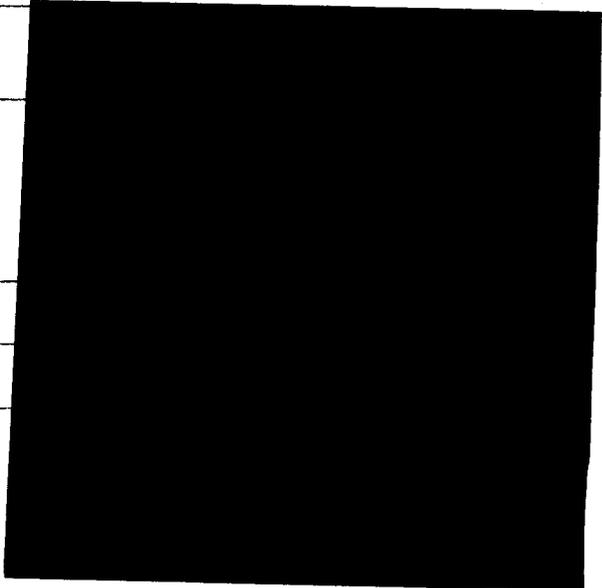
JUDGMENT DATE 1/11/01

JUDGMENT denied

M.F.R. FILED _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # Pauper



Court of Appeals of the State of Georgia

ATLANTA,

JAN 11 2001

The Court of Appeals hereby passes the following order:

MOTION DOCKET 310. TRAINER v. STILLLS.

Steven Brian Trainer has filed a motion in this court, pursuant to Court of Appeals Rule 40 (b), for a Stay of Proceedings in the Superior Court of Fulton County in a case styled IN RE: Petition of Terry K. Stills et al. for the Adoption of Brian Stills, a minor child, Adoption File No. 2000-CV-25799, and for an order to Expedite Appeals Process and Procedures in the Juvenile Court of Houston County, in the case of In Re: Brian Alexander Stills, a child, Case Number 0762000J1717. Upon consideration, we find that this Court is without sufficient information to act on the Motion for Stay of Proceedings in the Superior Court of Fulton County and hereby order Steven Trainer to provide us the following additional information within 10 days of the issuance of this order:

- 1) Whether the Superior Court of Fulton County, Adoption File No. 2000-CV-25799, has been properly notified, in writing, that a

notice of appeal has been filed from the order terminating Trainer's parental rights;

2) Whether a proper motion to stay the adoption proceedings in the Superior Court of Fulton County, Adoption File No. 2000-CV-25799, during pendency of the appeal has been made in that court, and if so, whether a ruling has been made on that motion;

3) Whether a hearing scheduled for November 13, 2000 in the Superior Court of Fulton County, Adoption File No. 2000-CV-25799, was held, and if so, whether any orders have been issued following that hearing.

Further, we order the Motion to Expedite the Appeal Process and Procedures in the Juvenile Court of Houston County be denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 11 2001

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

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

Will. Z. Martin

Clerk.

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

ATLANTA, MAR 7 2001

The Court of Appeals hereby passes the following order:

MOTION DOCKET NO. 310. TRAINER v. STILLS.

Appellees have filed a motion requesting that we dismiss or deny any remaining issues raised by appellant Steven Trainer in his Emergency Motion previously filed in this Court. Having considered said motion, we hereby deny Trainer's request to stay the proceedings in the case styled IN RE: Petition of Terry K. Stills, Fulton Superior Court, Civil Action File Number 2000 CV 25799.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 7 2001

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

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

Clerk.

Will. L. Martin

MOTIONS DOCKET

DATE 1/31/01

MOTION DOCKET # 311

CHARGE _____

STYLE Kevin A Stag v. Assurance Co. of America

ATTY. FOR APLT Kevin Stag
Box 1395
Dalhousie 30533

ATTY. FOR APLE Clayton H. Farnham
Dr. Eckel & Farnham
880 W. 4th St, apt 20309

LOWER CT. JUDGE Ernest H. Woods
LOWER CT. # 00 CV 223 DB
COUNTY Dumfries

OUR JUDGE'S CODE 94-311

BRIEFS FILED _____

JUDGMENT DATE 1/31/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 1/31/01 #8227 Kevin Stag

MOTIONS DOCKET

DATE 3/29/01 MOTION DOCKET # 312

CHARGE Supersedeas

STYLE In re: J.S.J.

ATTY. FOR APLT Wm J. Atkins
Parks, Chesin, Walker & Miller
75 Joubert St., NE, 26th Floor, Apt 30309

ATTY. FOR APLE Joseph Goczeko
Sumner, Kibria, Goczeko & Metz
315 W. Park Dr., Decatur, GA 30030
41378-1711
Deidra M. Stephens
Ste 450, 2126 "L" St. N.W., Wash. D.C. 20037
Douglas Peters
Peters, Roberts, Borowik & Kuntz
514 245 2786 N. Decatur Rd
Decatur 30030

non pay
S.A.G
40 Capitol Sq SW
atd 30334

LOWER CT. JUDGE ~~Gregory A. Adams~~
LOWER CT. # 15636
COUNTY DeKalb juvenile

OUR JUDGE'S CODE 96-312

BRIEFS FILED _____

JUDGMENT DATE 3/29/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

MOTIONS DOCKET

DATE 3-30-01

MOTION DOCKET # 313

CHARGE _____

STYLE Angela Morton v. Allen Morton

ATTY. FOR APLT Tanya Mitchell Grahamy P.C.
5295 Highway 78 - Suite D - 359
Stone Mt., GA 30087

ATTY. FOR APLE _____

LOWER CT. JUDGE Edward D. Wheeler Sr. Judge
LOWER CT. # DeKalb Superior Ct. 01CV2263-9
COUNTY DeKalb

OUR JUDGE'S CODE 96 -> 98

BRIEFS FILED NT

JUDGMENT DATE 4/3/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

MOTIONS DOCKET

DATE 5/4/01

MOTION DOCKET # 314

CHARGE In re: J.S.J. a child

STYLE _____

ATTY. FOR APLT David F Walbert
Paige Chapin Walbert & Muller S.C.
26th floor, 75 14th St, Oct. 30309

ATTY. FOR APLE Joseph Spegecks | Debra M. Stephens | Wm C. Joy
Kimmons, Warren | DeKalb Cty Child Advocate | Sen. AAG
Spegecks & McFee | DeKalb Juv. Ct. Bldg | 40 Capital Sq
313 W. Bonce depon Ave | 3131 Camp Cir. | at 30334
Ste 850, Decatur 30030 | Decatur 30032

LOWER CT. JUDGE _____
LOWER CT. # _____
COUNTY DeKalb (juvenile)

OUR JUDGE'S CODE 90-314

BRIEFS FILED _____

JUDGMENT DATE 5-5-2001

JUDGMENT Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

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

ATLANTA,

MAY - 5 2001

The Court of Appeals hereby passes the following order:

Mot. Doc. 314. In Re J.S.J., a child.

The father of J.S.J. has filed an emergency motion, dated May 4, 2001, seeking to expedite this appeal in three particulars. Petitioner has not shown that the requested action is necessary to preserve the jurisdiction of an appeal “or to prevent the contested issue from becoming moot,” as required by Court of Appeals Rule 40 (b), and as explained in a prior order on a previous emergency motion, dated March 29, 2001. The motion is therefore denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 5 2001

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

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

Will. Z. Mart..., Clerk.

MOTIONS DOCKET

DATE 6/11/01

MOTION DOCKET # 315

CHARGE Supersedeas

STYLE Michael Goodwin Pegg, Jr v State

ATTY. FOR APLT Wm C Head
750 Hammond Dr Bldg 5
Att 20328

ATTY. FOR APLE Caryn Smith, Esq
Fulton Co, Ga 31209-301
160 Pagan St, Att 30303

LOWER CT. JUDGE Patsy Y. Rester
LOWER CT. # 20 CR 24477
COUNTY Fulton

OUR JUDGE'S CODE 90-

BRIEFS FILED 6/11/01

JUDGMENT DATE 6/12/01

JUDGMENT see order

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____ Cost. dismissed 6/29/01

COSTS PAID-DATE & RECEIPT # 6/11/01 9764 Wm Head

MOTIONS DOCKET

DATE 6/26/01

MOTION DOCKET # Mot. Doc 316

CHARGE Supersedeas

STYLE In re: Jerry K. + Crystal J. Stills for
the adoption of Brian Thainer (Stills)

ATTY. FOR APLT Genevieve L. Frazier v. Bertrude Johnson
Lusser & Frazier LLP Edwin Hamilton
491 Broad St., Ste 300, Box 906 / 2200 Mabry & McClelland
Rome 30162-0906 / Tenth Floor
att 30345

ATTY. FOR APLE Bernadette C. Crucilla, LLC / Joyce Colman
664 Arlington Place / Box 5867
Macon 31201 / att 31107

LOWER CT. JUDGE Alice D. Bonner
LOWER CT. # 2000 CV 25799
COUNTY Fulton (Sup)

OUR JUDGE'S CODE 97-316

BRIEFS FILED _____

12/14/01 To Elpedis

JUDGMENT DATE 7/2/01

10/1/01 Cert denied

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED 7/10/01

COSTS PAID-DATE & RECEIPT # 6/26/01 9903 Mabry & McClelland

MOTIONS DOCKET

DATE 6/26/01

MOTION DOCKET # 317

CHARGE Supersedeas

STYLE Beatrice Johnson v Jerry K & Crystal J Stills

ATTY. FOR APLT Jose A. Calmar / Bernadette C. Crucilla / Kachya Jacometti
Box 3807 / 1st W. Wilmington DE / 225 Pine St. NE #1620
att. 31107 / Macon 31201 / att 30303

ATTY. FOR APLE Eduin L. Hamilton / Executive L. Frazier
Thayer + McClelland LLP / Husser & Frazier LLP
2200 Century Pkwy N.E., 10th Flr / Box 906, 401 Broad St
att. 30348 / Rome 30162

LOWER CT. JUDGE Alice P. Bonner
LOWER CT. # 2000CV25799
COUNTY Fulton (Sup)

OUR JUDGE'S CODE 99-317

8/27/01 Motion

BRIEFS FILED 6/28/01 resp.

11/21/01 MTD.
12/14/01 To Expedite

JUDGMENT DATE 7/2/01

10/1/01 Cert denied

JUDGMENT granted

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED 7/10/01

COSTS PAID-DATE & RECEIPT # 6/26/01 / 9907 / Bernadette C. Crucilla

Court of Appeals of the State of Georgia

ATLANTA, July 2, 2001

The Court of Appeals hereby passes the following order:

MOTION DOCKET 316, 317. STILLS et al. v. JOHNSON and visa versa.

These companion emergency motions concern a continuing controversy over the custody of a minor child, B.T. For the past two years, the child's paternal grandmother, Gertrude Johnson, has been his physical custodian¹ pursuant to orders issued in a custody action pending in the Superior Court of Houston County.² That custody action is still pending. In a second action, the Juvenile Court of Houston County terminated the parental rights of the child's biological father, Steven Trainer.³ That decision is on appeal to this Court. In a third action, the Stills petitioned the Superior Court of Fulton County to adopt the child.⁴ On March 28, 2001, the Fulton

¹ See OCGA § 19-9-22 (3) (defining "physical custodian"). See also *Stills v. Johnson*, 272 Ga. 645, 649 (2) (533 SE2d 695) (2000) (ruling that neither party was a "legal custodian").

² See *Trainer v. Stills*, Civ. No. 97V60169-L (Superior Court of Houston County, June 21, 1999, Aug. 1, 2000) (orders granting temporary custody of child to Johnson).

³ See *In the Interest of B.A.S.*, No. 076000J1717 (Juvenile Court of Houston County, Sept. 25, 2000) (order terminating parental rights).

⁴ *In Re: Petition of Terry K. Stills*, Adoption file No. 2000-25799.

County court entered a visitation order which, among other things, permitted the Stills "to visit with the child in Georgia for six (6) weeks during his summer vacation, beginning at noon on June 21, 2001."⁵ On June 19, 2001, the Fulton County court granted the petition of Terry K. Stills and Christal J. Stills to adopt the child.⁶ In the adoption order, the court stated that the child's "best interests are served by the adoption of him by and immediate transfer of his custody to the [Stills]."⁷ Accordingly, the court ordered that the Stills "are authorized to pick up Brian and his possessions from Ms. Johnson's home at noon on June 23, 2001."⁸

On June 21, 2001, Johnson, an intervener in the Stills' adoption action, filed a Notice of Appeal of the Court's June 19th order. Johnson filed the instant emergency motion (Motion Docket 317), requesting the Court to grant supersedeas while her appeal is pending. The Stills filed their own motion (Motion Docket 316), opposing the grant of supersedeas. In addition, the Stills recently filed a separate response to Johnson's motion asserting that, pursuant to a June 27, 2001 order of the Superior Court of New Jersey, they have taken the child to Georgia. It appears that the New

⁵ Id. (Superior Court of Fulton County, March 28, 2001) (visitation order).

⁶ Id. (Superior Court of Fulton County, June 19, 2001) (order granting adoption petition).

⁷ Id. at 8.

⁸ Id. at 9.

Jersey Superior Court authorized such action based the Fulton County court's March 28th visitation order permitting six weeks visitation during the summer. Upon carefully considering the circumstances, and for reasons which follow, the Court grants Johnson's motion for supersedeas and denies the Stills' motion.

As a general rule, the filing of a notice of appeal in civil cases serves as supersedeas upon payment of all costs by the appellant.⁹ In custody cases such as this, trial courts are permitted to modify the supersedeas by including a special provision in the final custody order "that the custody award is effective as of the date of the judgment to protect the best interest and welfare of the child. Subject to review by this court, this type of order would effectively modify the automatic supersedeas as it regards custody and would be enforceable through contempt proceedings in the trial court."¹⁰ Although the superior court had authority to modify the supersedeas, as an appellate court, we have the "power to grant supersedeas in such manner as [we] may determine to meet the ends of justice."¹¹

In this troublesome case, justice is best served by maintaining the status quo. Significantly, our Legislature has recognized that multi-jurisdictional custody battles such as this "have in the past resulted in the shifting of children from county to

⁹ See OCGA § 5-6-46 (a).

¹⁰ *Walker v. Walker*, 239 Ga. 175, 176 (236 SE2d 263) (1977).

¹¹ OCGA § 5-6-46 (c).

county with harmful effects on their well-being."¹² Thus, our focus must be at all times on the "best interests, welfare and happiness" of the children.¹³ In this case, we decline to speculate concerning the ultimate outcome of the three separate "custody" actions involving the child. We cannot ignore, however, the *possibility* that either of the Houston County actions or the Fulton County action could eventually result in a decree which requires custody to be placed with Johnson. Although the child is now in Georgia for scheduled visitation, if "permanent" custody of the child is now transferred to the Stills pursuant to the Fulton County adoption order, such future decree would, as recognized by the Legislature, result in the child being shifted "from county to county with harmful effects on [his] well-being."¹⁴ Likewise, since the child has been in Johnson's custody for the last two years, we find that it is not in his best interests to abruptly change custody at this time. Considering these circumstances, we believe that maintaining the status quo will mitigate, to the extent possible, the harm that these rather bitter proceedings are having on the child. Accordingly, Johnson's motion filed under Motion Docket 317 is hereby granted, and the Stills' motion filed under Motion Docket 316 is hereby denied.

¹² OCGA § 19-9-21 (a) (1).

¹³ See *Stills*, 272 Ga. at 650.

¹⁴ OCGA § 19-9-21 (a) (1).

Finally, we note that our grant of supersedeas merely precludes enforcement of the Fulton County Superior Court's June 19, 2001 order. The parties are hereby ordered to comply with the trial court's March 28, 2001 visitation order and with such further visitation orders as the trial court may impose while the appeal is pending.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL - 2 2001

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

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

W. Z. Martin, Jr., Clerk.

MOTIONS DOCKET

DATE 6/25/01 (act) MOTION DOCKET # 318

CHARGE Motion for Disjunction

STYLE Donna Marie Smith v Cathy Cox, Sec. of State, et al

ATTY. FOR APLT Donna Marie, Smith
Co 4455 Sagebrush Dr.
Kennesaw, Ga 30152

ATTY. FOR APLE Janet K Jackson
Miss A.G. 40 Capital Sq
at 30334-1360

LOWER CT. JUDGE Doris J Downs
LOWER CT. # 2000CV 21113
COUNTY Fulton (sup)

OUR JUDGE'S CODE 97-318

BRIEFS FILED _____

JUDGMENT DATE 6/27/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, JUN 27 2001

The Court of Appeals hereby passes the following order:

MOTION DOCKET 318. SMITH v. COX, et al.

It appears that on January 19, 2001, the State issued a final decision revoking Donna Marie Smith's nursing license. At some point, Smith filed an action in Fulton County Superior Court, seeking to enjoin the State from removing her license. The trial court dismissed that action, and Smith filed a Notice of Appeal on March 5, 2001. The appeal has not yet been docketed in this Court.

On June 25, 2001, Smith filed a Motion for Emergency Order under Court of Appeals Rule 40 (b), asking this Court "to restrain and enjoin [the State] from enforcing the . . . administrative 'Final Decision' revoking [her] Georgia Board of Nursing License." According to Smith, she filed this Motion to preserve the jurisdiction of the appeal and to prevent contested issues from becoming moot.

Under Court of Appeals Rule 40 (b),

In the exercise of its inherent power this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power will be exercised sparingly. Generally, no order will be made or direction given in an appeal until it has been docketed in this Court.

As noted above, the appeal has not yet been docketed, and we have no record before us. Our review is limited to Smith's two-page motion, which lacks any argument supporting her bald assertion that emergency relief is necessary.

Smith's extremely limited submission provides no basis for concluding that the requested relief is required to preserve appellate jurisdiction or prevent contested issues from becoming moot. Emergency relief under Rule 40 (b) is not appropriate in this case. Accordingly, Smith's motion is denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 27 2001

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

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

William Z. Martin, Clerk.

MOTIONS DOCKET

DATE 7-3-01

MOTION DOCKET # 319

CHARGE _____

STYLE Martin Zbosnik et al v. Partridge Greene, Inc.

ATTY. FOR APLT Alan E Begner
881 Ponce de Leon Av.
Atlanta, GA 30306-4267

404-872-5727

ATTY. FOR APLE _____

LOWER CT. JUDGE Dawson Jackson
LOWER CT. # Superior Court
COUNTY Cwinnett

OUR JUDGE'S CODE 99-319

BRIEFS FILED NT's

7/27/01 To reinstate

JUDGMENT DATE 7/3/01

7/27 Reinstated

JUDGMENT Transferred to SC

7/30 Response

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID DATE & RECEIPT # 9964 7/3/01 Begner + Begner

Daniel Esrey
4/881-4487

Supreme Court

Court of Appeals of the State of Georgia

ATLANTA, July 3, 2001

The Court of Appeals hereby passes the following order:

MOTION DOCKET 319. ZBOSNIK, et al. v. PARTRIDGE GREENE, INC.

This case involves constitutional issues of free speech under the First Amendment of the United States Constitution and under Art. I, Sec. I, Para V. of the Georgia Constitution as well as equitable relief in the form of an injunction which affects the underlying constitutional free speech rights of appellants. Therefore, this appeal is hereby transferred to the Supreme Court.

This Court hereby stays the order of June 21, 2001, granting an interlocutory injunction to appellee Partridge Greene until this case can be considered by the appropriate court on appeal.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL - 3 2001

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

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

William Z. Martin, Jr.
....., Clerk.

MOTIONS DOCKET

DATE 7/13/01

MOTION DOCKET # 320

CHARGE _____

STYLE In re: Joey Keith Hall

ATTY. FOR APLT Sherry Barne
511 Courthouse Lane
Augusta, 30901

ATTY. FOR APLE David V. Weber
Box 21149
Martinez 30917-1149

LOWER CT. JUDGE Duncan D. Wheale
LOWER CT. # 2000-RCD 1351
COUNTY Richmond

OUR JUDGE'S CODE 99-320

BRIEFS FILED _____

JUDGMENT DATE 7/16/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED 7/26/01

COSTS PAID-DATE & RECEIPT # _____

Court of Appeals of the State of Georgia

ATLANTA, JUL 16 2001

The Court of Appeals hereby passes the following order:

MOTION DOCKET NO. 320. HALL v. HALL.

This case involves a petition for change of custody filed by the appellee/plaintiff Rhonda K. Hall. Appellant/defendant Joey Kyth Hall has filed an emergency motion pursuant to Court of Appeals Rule 40 (b) requesting that this Court allow him to appeal the "SECOND TEMPORARY ORDER" issued by the trial court on June 29, 2001, which, among other things, changed physical custody of the minor child from the appellant/defendant to the appellee/plaintiff. Appellant/defendant further requests that this Court issue an emergency stay of such temporary order. After reviewing the emergency motion, this Court finds that the appellant/defendant has failed to demonstrate in his petition and attachments that an emergency exists which would justify the grant of his prayers for an emergency order under Rule 40 (b) of the Rules of the Court of Appeals.

Further, the order which appellant/defendant seeks to appeal is not subject to the discretionary appeal procedure of OCGA § 5-6-35 because it is not a final order. Regardless of appellant/defendant's understanding that the trial court was issuing a final order, the order is clearly captioned "SECOND TEMPORARY ORDER" and sets a date for a final hearing. The appeal of such order must be under the interlocutory appeal provisions of OCGA § 5-6-34 (b). Appellant/defendant has failed to provide a certification from the trial court for immediate review as required by such code section. Without a certificate of immediate review this Court has no jurisdiction to consider the appeal. *Parker v. Kennon*, 235 Ga. App. 272 (509 SE2d 152) (1998). Therefore, this Court denies appellant/defendant's application for appellate review and his request for an emergency stay of the June 29, 2001 order.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 16 2001

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

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

W. Z. Martin, Jr. _____, Clerk.

MOTIONS DOCKET

DATE 8/23/01

MOTION DOCKET # 321

CHARGE To Stay

STYLE U7H Captive Ins. Co. v. Michael P. Colinski

ATTY. FOR APLT David A. Webster
Sidney L. Moore Jr. 415 Candler Bldg, 127 Peach St
34 Peach St. NE Atl. 30303-1810
St. 2560
att. 30303

ATTY. FOR APLE Charles A. Gower
Box 3509
Columbus 31906

LOWER CT. JUDGE Myra H. Dixon
LOWER CT. # State ~~1~~
COUNTY Fulton

OUR JUDGE'S CODE 93-321

BRIEFS FILED _____

JUDGMENT DATE 8/27/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # 8/23/01 #0468 David A. Webster

MOTIONS DOCKET

DATE 9/18/01

MOTION DOCKET # 322

CHARGE To Set Aside

STYLE Autolife Automotive Inc. v. Walter C. Alford

ATTY. FOR APLT Cynthia Edwards
4645 Glen Maple Drive
Powder Springs, 30127

ATTY. FOR APLE Paul Tucker (cogee)
4845 Gummy Carter Blvd
Lawrenceville 30093

LOWER CT. JUDGE Mitchum
LOWER CT. # 01-C-30062
COUNTY Lawrence

OUR JUDGE'S CODE 71-322

BRIEFS FILED _____

JUDGMENT DATE 9/19/01

JUDGMENT denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

COSTS PAID-DATE & RECEIPT # _____

MOTIONS DOCKET

JUDGE # 70 - MOTION DOCKET NUMBER 323

DATE: 11/13/01 REC #: 1291 PAID BY: Sarel Mitchell

CHARGE: Supersedeas

STYLE: In re Atty: Joseph L. Waitz
v. Our Loving Mother's Children Inc et al

ATTY. NT: Sarel C. Mitchell
280 Constitution Blvd
Lawrenceville, 30045

ATTY. EE: Michael J. Powell
Baker, Donelson, Beatman & Caldwell
Five Concourse Plaza, Ste 900
Atlanta 30328

J. Marc. Vezina | Edmond J. Moustrey
Virginia + Matusso, LLC | Charles
481 Weeper St., Box 461
Bretna, LA 70054

LOWER CT. JUDGE: Sidney Nation
LOWER CT. CASE # 99 CV 2358N
COUNTY: _____

BRIEFS FILED: _____

JUDGEMENT DATE: 11/13/01 JUDGMENT: granted

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

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

ATLANTA, NOV 13 2001

The Court of Appeals hereby passes the following order:

**MOTION DOCKET 323. IN RE ATTORNEY: JOSEPH L. WAITZ vs. OUR
LOVING MOTHER'S CHILDREN, INC., ROBERT J. HUGHES,
BERNICE A. HUGHES, JACK SWEENEY & MICHAEL O'CONNER.**

The Court having considered movant Joseph L. Waitz's Motion for Supersedeas Pending Appeal, it is hereby ordered that the trial court grant bond to movant and that said bond be granted as a personal recognizance bond, upon signature of movant.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 13 2001

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

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

William Z. Mart... Clerk.

MOTIONS DOCKET

JUDGE # 70-324 MOTION DOCKET NUMBER 324

DATE: 11/13/01 REC #: 1295 PAID BY: Steel Law Firm

CHARGE: To Stay

STYLE: Jamice Thrice Carlisle v State

ATTY. NT: Brian Steel
1800 1/2 Ave St NW STE 300
Atlanta 30309

ATTY. EE: David Keeton
~~David Keeton~~
75 Lansley Dr
Annandale 22045

LOWER CT. JUDGE: James W Blendine
LOWER CT. CASE # 97-B-0731-1
COUNTY: Gwinnett

BRIEFS FILED: _____

JUDGEMENT DATE: 11/13/01 JUDGMENT: Granted

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

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

ATLANTA, NOV 13 2001

The Court of Appeals hereby passes the following order:

**MOTION DOCKET 324. JANICE MARIE CARLISLE vs. STATE OF
GEORGIA.**

MOTION DOCKET 325. BRIAN STEEL vs. STATE OF GEORGIA.

In Motion Docket 324, Janice Marie Carlisle has filed an emergency motion to stay her trial in the Gwinnett Superior Court on double jeopardy grounds. In Motion Docket 325, Carlisle's counsel of record has filed an emergency motion for release from an order of the superior court holding counsel in civil contempt for refusal to proceed with the trial.

On June 5, 1997, Carlisle entered a negotiated plea of guilty to four counts of an eleven-count indictment. As part of the plea agreement, the State nolle prossed the remaining seven counts. Carlisle subsequently filed a petition for habeas corpus challenging the voluntariness of her plea. On August 16, 2000, the habeas court vacated Carlisle's plea.

On November 2, 2001, the Gwinnett Superior Court entered an order denying Carlisle's oral motion to be tried on only the four counts of the indictment to which

She had pled guilty. On November 6, Carlisle filed a notice of appeal from the order denying her oral motion, which she described as a "plea of former jeopardy."

On November 13, the Gwinnett Superior Court entered another order ruling that "[w]hile normally a denial of a plea of former jeopardy would allow a direct appeal, the substance of defendant's motion is a plea in bar, raising a statute of limitations defense." In its November 2 and November 13 orders, the superior court also found that the habeas court had reinstated the original indictment and ruled that Carlisle may not now attack the order granting the writ after she has taken advantage of those portions favorable to her.

In reliance on *Buice v. State*, 272 Ga. 323 (2000) (holding that the trial court has no power to try a defendant under a nolle prossed indictment unless the nolle pros is reinstated during the term of court in which it was filed), Carlisle argues that the State is limited to trying her on only the four counts to which she pled guilty and is precluded from trying her on the remaining seven counts. Finding *Buice* distinguishable in its November 2 order, the Gwinnett Superior Court ruled that the State is entitled to proceed on all counts of the indictment as originally returned.

In our opinion, whether *Buice* is distinguishable is debatable. Therefore, we grant the emergency motions in Motion Dockets 324 and 325. We order that Carlisle's appeal of the November 2 order be allowed to proceed, the trial court immediately release counsel from civil contempt, and all other proceedings below,

including any hearing on contempt, be hereby stayed pending resolution of Carlisle's appeal or further order of this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 13 2001

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

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

Will. Z. Martin Clerk.

MOTIONS DOCKET

JUDGE # 70-325 MOTION DOCKET NUMBER 325

DATE: 11/13/01 REC #: 1302 PAID BY: Brian Steel Law Firm

CHARGE: Supersedeas

STYLE: Brian Steel v State

ATTY. NT: Colette K. Steel
1800 O'Free St NW Ste 300
Atlanta 30309

ATTY. EE: David Hector, ADA
Gwinnett City D.A. Office
75 Jangley Dr
Lawrenceville 30045

LOWER CT. JUDGE: James W. O'Leary
LOWER CT. CASE # 97130731-1
COUNTY: Gwinnett

BRIEFS FILED: _____

JUDGEMENT DATE: 11/13/01 JUDGMENT: granted

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

MOTIONS DOCKET

JUDGE # 70-326 MOTION DOCKET NUMBER 326

DATE: 11/16/01 REC #: 1348 PAID BY: Paul Weiner

CHARGE: Supersedeas

STYLE Alexander Donan v. Theodore Stapleton

ATTY. NT: Tracy Weiner
Box 698
Jonesboro 30237

ATTY. EE: James T. McDonald Jr
Ampt Currie
1355 P'tree St SE
Acrt 30309-3231

LOWER CT. JUDGE: Matthew O Simmons
LOWER CT. CASE # 2002CV042218
COUNTY: Clayton

BRIEFS FILED: _____

JUDGEMENT DATE: 11/19/01 JUDGMENT: Granted

M.F.R. FILED: 11/26/01
REPOSSES: _____ 11/27/01 denied

N.O.I. FILED: _____

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

ATLANTA, **NOV 19 2001**

The Court of Appeals hereby passes the following order:

**MOTION DOCKET 326. ALEXANDER DOMAN v. THEODORE
STAPLETON.**

The Court, having considered movant Alexander Doman's extraordinary motion for supersedeas, finds that because the superior court entered final judgment on Doman's motion for confirmation on August 13, 2001, Doman's August 28 notice of appeal operates as a supersedeas of all orders entered on August 13. Because the effect of the supersedeas is to stay enforcement of the court's ruling that Stapleton is not prohibited from pursuing his attorney's fee claim in the pending arbitration, Doman's Extraordinary Motion for Supersedeas Staying Participation in Arbitration Proceeding During Pendency of Appeal is granted.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 19 2001**

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

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

William Z. Mart..., Clerk.

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

ATLANTA, NOV 27 2001

The Court of Appeals hereby passes the following order:

**MOTION DOCKET 326. ALEXANDER DOMAN v. THEODORE
STAPLETON.**

Stapleton's Motion for Reconsideration filed in the above styled case is hereby denied. See OCGA § 5-6-34 (d).

*Court of Appeals of the State of Georgia, 7
Clerk's Office, Atlanta NOV 27 2001*

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

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

Will. Z. Mat. [Signature], Clerk.

MOTIONS DOCKET

JUDGE # 92 MOTION DOCKET NUMBER 327

DATE: 11/30/01 REC #: _____ PAID BY: _____

CHARGE: To Remand

STYLE: Harold E. Willett, Jr. v. Russell M Stooker et al

ATTY. NT: Donald E. Duxey Jr
32 E. Montgomery Cross Rd
Savannah 31406

ATTY. EE: Michael J. Haman III
Law, Willingham, Peters, Killeland
& Thonigak
Ste 2200, 600 1/2 Ave. St NE
at 30308

J. Gregory Hodges
Oliver, Manes & Gray, LLP
Box 10186
Sav. 31412

LOWER CT. JUDGE: Robert E. Falligant, Jr.
LOWER CT. CASE # E00-1855-G
COUNTY: Chatham

BRIEFS FILED: _____

JUDGEMENT DATE: 12/5/01 JUDGMENT: Dismissed

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

MOTIONS DOCKET

JUDGE # 94 MOTION DOCKET NUMBER 328

DATE: 1/22/02 REC #: 1864 PAID BY: Nelson Mullins Riley & Scarborough

CHARGE: Motion to Stay

STYLE: Coliseum Med. Center LLC d/b/a Coliseum Med. Center

ATTY. NT: Jeffrey C. Baxter
Stanley S. Jones, Jr. Jennifer D. Malinovsky
1st Union Plaza

see file

ATTY. EE: _____

LOWER CT. JUDGE: _____
LOWER CT. CASE # _____
COUNTY: _____

BRIEFS FILED: _____	Responses	ee	1-22-02
_____	resp	ee	1/23/02
_____	resp	ee	1/24/02

JUDGEMENT DATE: 1/24/02 JUDGMENT: granted

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

Court of Appeals of the State of Georgia

ATLANTA, JAN 24 2002

The Court of Appeals hereby passes the following order:

MOTION DOCKET 328. Coliseum Medical Center, LLC v. Georgia Department of Community Health et al.

Coliseum Medical Center, LLC (Coliseum) has filed an Emergency Motion for Stay Pending Appeal pursuant to Court of Appeals Rule 40 (b), seeking a stay of an order of the Superior Court of Bibb County filed January 18, 2002 in the case styled *Medical Center of Central Georgia, Inc. v. Georgia Department of Community Health and Coliseum Medical Center, LLC, Civil Action No. 00CV10891* pursuant to which Coliseum was required to cease and desist operation of its open-heart adult surgery program as of the date of the order.

Having considered said motion, along with accompanying exhibits, we hereby GRANT Coliseum's Emergency Motion to Stay the January 18, 2002 order requiring Coliseum to cease and desist operation of its open-heart adult surgery program. In its motion, Coliseum has represented to this Court that it will file an application for discretionary appeal in a timely manner; if Coliseum fails to file such application within 30 days of the entry of the January 18, 2002 order, as prescribed by OCGA § 5-6-35 (d), the stay imposed by this order will automatically dissolve, and Coliseum will be required to cease and desist operation of its open-heart surgery program immediately. However, if Coliseum properly and timely files an application for discretionary appeal, the stay imposed by this order will remain in effect during the pendency of such application and in the event that the application is granted, the stay imposed by this order will remain in effect until this Court issues an order or opinion resolving the appeal filed pursuant to the grant of said application.

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

APR 13 2002

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

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



....., Clerk.

MOTIONS DOCKET

JUDGE # 94 MOTION DOCKET NUMBER 329

DATE: 1-31-02 REC #: 71983 PAID BY: Mike Maloof

CHARGE: Contempt

STYLE: Victoria Little v. The State

ATTY. NT: Mike Maloof

ATTY. EE: Alban Cook

LOWER CT. JUDGE: S. J. Mulherin
LOWER CT. CASE # _____
COUNTY: _____

BRIEFS FILED: NT

JUDGEMENT DATE: 1-31-02 JUDGMENT: Motion Granted

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

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

ATLANTA, JAN 31 2002

The Court of Appeals hereby passes the following order:

MOTION DOCKET 329. VICTORIA LITTLE v. THE STATE.

Defendant/Appellant, Victoria Little, filed her Motion for Supersedeas Bond in this Court on January 31, 2001, with Notice of Appeal from the order of the Superior Court of Newton County, Judge Bernard J. Mulherin, of same date, holding said Defendant in criminal contempt, and ordering her immediate incarceration and denying her Motion for Supersedeas Bond.

It is hereby ordered that Victoria Little be released instanter from the custody of the Newton County Sheriff on her own recognizance until such time as a hearing, if any, may be held on the contempt charges or the holding and sentence resulting therefrom, and until any appeal right of said Appellant under the laws of the State of Georgia in connection therewith have been exhausted.

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

JAN 31 2002

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

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

Will. L. Martin, Jr., Clerk.

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER 330

DATE: 3/4/02 REC #: 2240 PAID BY: Carter & Ansley

CHARGE: Supersedeas

STYLE: Beers Constr. Co et al v. Atlanta Gift Mart

ATTY. NT: Christopher N. Swann } of Carter & Ansley
J. Robert Persons } Ste 2300, Atlantic Center Plaza
Co. Ronald Bennett } 1180 W. Peachtree St, Atl 30309
Robert A. Shannon } w/ Hall Booth Smith & Slower
Nandall C. Farmer } Ste 2500, 230 Peachtree St, NW, Atl 30303-1515

ATTY. EE: W. Henry Parkman w/ Duffin Cochran & Marshall
127 Peachtree St - 14th Fl.
Atl 30303-1741

LOWER CT. JUDGE: Patsy Porter
 LOWER CT. CASE # 97V50130835B
 COUNTY: Fulton/State

BRIEFS FILED: _____

JUDGEMENT DATE: 3/5/2002 JUDGMENT: Denied

M.F.R. FILED: _____
 REPOSSES: _____

N.O.I. FILED: _____

Court of Appeals of the State of Georgia

ATLANTA, MAR 5 - 2002

The Court of Appeals hereby passes the following order:

Motion Docket 330. Beers Construction Company, et al., v. Atlanta Gift Mart, L.P.

Beers Construction Company and Allison-Smith Company have moved this court to enter an order, pursuant to this court's Rule 40 (b), directing the State Court of Fulton County that it has no jurisdiction to try a civil case designated in the motion because, it contends, a notice of appeal filed by Allison-Smith Company acts as a supersedeas under OCGA § 5-6-46 (incorrectly designated several places in the motion as OCGA § 5-4-46). We disagree, and deny the motion.

In the present case, Atlanta Gift Mart sued Beers Construction Company. Beers Construction Company denied liability and filed a third-party action against Allison-Smith Company, seeking, among other things, indemnity or contribution. Allison-Smith Company, in turn, filed a third-party and fourth-party action against Mayer Electric Company and Square D Company, seeking indemnity or contribution. Both Mayer Electric Company and Square D Company filed motions for summary judgment, which the trial court granted. Allison-Smith Company filed its notice of appeal from the grant of these motions. However, contrary to Allison-Smith Company and Beers Construction Company's argument, the trial court has informed all parties that the case will be tried beginning March 11, 2002, notwithstanding the pending appeal. Beers Construction Company and Allison-Smith Company filed this emergency motion, requesting that we issue an order directing the trial court that it has no jurisdiction to move forward with the trial of the case at this time.

This court's authority to issue orders in emergency situations is not unlimited, and our review of the record indicates that the relief sought by Beers Construction Company and Allison-Smith Company does not meet the stringent requirements of Rule 40 (b). Rule 40 (b) provides:

In the exercise of its inherent power this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power will be exercised sparingly. Generally, no order will be made or direction given in an appeal until it has been docketed in this Court.

Here, we have not been presented with evidence that such an emergency situation exists in which we have the authority to grant relief. It is not necessary to grant the relief requested in order to preserve jurisdiction of the pending appeal. Nor is it necessary to grant the motion so as to prevent a contested issue from becoming moot.

Moreover, even if this court did have the authority to grant relief in this case, Beers Construction Company and Allison-Smith Company do not present a valid claim for relief. The general rule is that the trial court loses jurisdiction of a case in which an appeal has been taken as to all matters related to the appeal. See *Argonaut Ins. Co. v. Atlantic Wood Indus.*, 187 Ga. App. 477, 478 (370 SE2d 770) (1988). However,

[m]atters independent of and distinct from the questions involved in the appeal are not taken from the jurisdiction of the trial court. Such matters as the appeal does not cover are purely collateral or supplemental, lying outside the issues framed in the case, or arising subsequent to the delivery of the judgment from which the appeal is prosecuted. (Punctuation and citation omitted.) *Id.*

In the present case, Allison-Smith Company filed the third-party and fourth-party actions against Mayer Electric Company and Square D Company as permissive third-party actions pursuant to OCGA § 9-11-14 (a). These types of claims are subject to a severance or a separate trial if such a motion is granted by the trial court. See OCGA § 9-11-14 (a). They are truly collateral or supplemental actions. Thus, while the trial court is divested of jurisdiction with regard to the actions between Allison-Smith Company, Mayer Electric Company and Square D Company, the trial court retains jurisdiction with regard to the main action between the plaintiff and Beers Construction Company, and the action between Beers Construction Company and Allison-Smith Company.

Accordingly, the motion is DENIED.

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

MAR 5 - 2002

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

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

Will. Z. Mart..., Clerk.

MOTIONS DOCKET

JUDGE # _____ MOTION DOCKET NUMBER 331

DATE: 3/28/02 REC #: _____ PAID BY: _____

CHARGE: Supersedeas

STYLE: Angela Elaine Boutin v. State

ATTY. NT: E. Kenty Bennett Jr
Box 2205
Waycross 31502

ATTY. EE: Mike Devane, Sol.

LOWER CT. JUDGE: _____
LOWER CT. CASE # 02-00053
COUNTY: Ware

BRIEFS FILED: _____

JUDGEMENT DATE: 3/29/02 JUDGMENT: denied.

M.F.R. FILED: 4/1/02
REPOSSES: _____

N.O.I. FILED: _____

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

ATLANTA, **MAR 29 2002**

The Court of Appeals hereby passes the following order:

Motion Docket 331. Boutin v. The State.

Angela Elaine Boutin entered a guilty plea to the misdemeanor charge of obstructing an officer, and was sentenced to one year. Her sentence was probated. She filed this emergency motion for supersedeas, contending that the trial court failed to grant bond pending her appeal in that case in violation of OCGA § 17-6-1 (b) (1). However, as her motion itself asserts, she was not sentenced to serve jail time upon her conviction; rather, she was subsequently arrested by the an officer of the Probation Department, and she "does not know what the charges against her are." While Boutin is entitled to a bond pending appeal of her misdemeanor conviction as a matter of law, she is not necessarily entitled to a bond while awaiting a hearing on a probation revocation petition. See OCGA § 42-8-38 (b), which provides that the trial court may commit a probationer with or without bail to await further hearing.

The emergency motion for supersedeas is therefore denied.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **MAR 29 2002**

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

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

Will. Z. Mart..., Clerk.

MOTIONS DOCKET

JUDGE # 98 MOTION DOCKET NUMBER 332

DATE: 4/8/02 REC #: 2909 PAID BY: Sutherland Asbill & Brennan

CHARGE: To Stay

STYLE: PCC Airfoils, Inc. et al v. Nathaniel Sanks

ATTY. NT: Frank M. Levery, IV
Attendant, Winston & Elmore LLP
1201 W. 14th St. N.W. Ste 3900
Atl. 30309

Teresa W. Roseborough, Julian M. DeLoach
Lana Hill
Sutherland Asbill & Brennan
999 8th St. NE, Atl 30309

ATTY. EE: Ben Mills / Hardy Gregory
Mills & Chastain PC / Gregory Christy & Maniklal
315 S. Main St. Box 408 / 108 Fifteenth Ave. E.
Fitzgerald, 31750 / P.O. Drawer 5230
Carlele, 31010

Bablin Lee Cook
Cook & Connelley
9899 Commerce St.
Summerville 30747-0370

LOWER CT. JUDGE: Penny Brown Reynolds
LOWER CT. CASE # 01VS022235 A
COUNTY: State / Fulton

BRIEFS FILED: 4/9/02 resp.

JUDGEMENT DATE: 4/9/02 JUDGMENT: Denial

M.F.R. FILED: 4/19/02
REPOSSES: _____

N.O.I. FILED: _____

MOTIONS DOCKET

333

JUDGE # 98-323

MOTION DOCKET NUMBER 323

DATE: 4/10/02 REC #: _____ PAID BY: _____

CHARGE: Supersedeas S/C # 502M1119

STYLE: Parvaz Akhtar et al v. Misty Ruby Partners, LP

ATTY. NT: Ralph Goldberg
315 W. Gonce de Leon Ave
St 430
Decatur 30030

ATTY. EE: J. Scott Jacobson
J. Frank Cantler
Holt Roy Zeffoff & Wasserman LP
100 Galleria Pkwy Ste 600
atl 30339-5911

Edward Buch
Smith Gambrell & Russell
St 3100 Promenade II
1730 Ponce St NE
atl 30309

LOWER CT. JUDGE: Philip J. Herdige
LOWER CT. CASE # 2-65859
COUNTY: Fulton

BRIEFS FILED: _____

JUDGEMENT DATE: 4/12/02 JUDGMENT: moot

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

MOTIONS DOCKET

JUDGE #

90-

MOTION DOCKET NUMBER

90-334

DATE:

5/6/02

REC #:

3158

PAID BY:

Careton R. Matthews

CHARGE:

Supersedeas

STYLE:

Jeville Davis v Craig Schwall

ATTY. NT:

Careton R. Matthews
4820 Redan Rd, Ste B
St. Mm. 30088

~~Hon. Craig Schwall~~

ATTY. EE:

Hon. Craig Schwall
Fulton Cty Mag. Ct
185 Central Ave SW
Atlanta 30303

Carmen Smith, Sol.
160 Paper St
St. J 301
Atl. 30303

LOWER CT. JUDGE:

Craig Schwall

LOWER CT. CASE #

165627 MC, 149017, 149015, 149016, 149018

COUNTY:

Magistrate / Fulton

BRIEFS FILED:

JUDGEMENT DATE:

5/8/2002

JUDGMENT:

Denied

M.F.R. FILED:

REPOSSES:

N.O.I. FILED:

Prior Order Vacated & Denied 5/29/2002

Denied

Court of Appeals of the State of Georgia

ATLANTA, MAY 8 - 2002

The Court of Appeals hereby passes the following order:

Motion Docket No. 334. DAVIS v. SCHWALL.

Jevelle Davis has moved this court for supersedeas pending her appeal from an order finding her in contempt of the State Court of Fulton County and ordering her to serve four consecutive 20-day sentences, one for each finding of contempt.

Procedural problems abound in Davis's motion. Rule 40 (b) of this Court, which governs emergency motions for supersedeas, provides that such a motion "must: (i) contain a stamped filed copy of the order being appealed; (ii) contain a copy of the notice of appeal, if such has been filed in the trial court; (iii) show that service has been perfected upon the opposing party before filing the motion with the Court; (iv) be accompanied by" the filing fee. The motion was filed on May 6, 2002 from the trial court's order entered on April 4, 2002. But no certificate of service was provided. The certificate of service was filed May 7, 2002, but it does not show that service upon the opposing party was perfected before the motion was filed in this court. In addition, the motion, even now, does not include a copy of the notice of appeal, although the motion recites in several places that a copy is "attached."

Nevertheless, we address the merits of the motion. OCGA § 5-6-13 (a), providing that it "shall not be in the discretion of any trial court judge to grant or refuse a supersedeas in cases of contempt," is not applicable to contempt in the presence of the court during the progress of a proceeding. OCGA § 5-6-13 (b). A hearing was held in the trial court, and the court heard evidence from three persons, all officers of the court: a judge, a Fulton County Marshal, and the court's case manager. The trial court found that because Davis's deliberate contumacious conduct over the telephone to these officers of the court was intended to deceive the court and was committed in the court's presence "or so near thereto as to obstruct the administration of justice." OCGA § OCGA § 15-1-4 (a) (1). The trial court concluded that it had the power "to prevent interruption, disturbance, or hindrance to its proceedings" by inflicting

immediate punishment. While the grant of supersedeas for contempt committed in the presence of the court is a matter within the sound discretion of the trial court, given Davis's history of failing to appear in court and her history of deception and fraud, as well as flight, as recounted in the trial court's order, we find that the trial court did not abuse its discretion in denying supersedeas bond. Davis's emergency motion for supersedeas is therefore hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 8 - 2002

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

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

William Z. Martin

....., Clerk.

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

ATLANTA,

MAY 29 2002

The Court of Appeals hereby passes the following order:

MOTION DOCKET 335. IN RE: W. HENRY TOLLER, III

The Court's order of May 24, 2002 is hereby WITHDRAWN because of clerical error and the attached order is substituted therefore.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 29 2002

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

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

Will. Z. Martin

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY 29 2002

The Court of Appeals hereby passes the following order:

MD 335. In Re: W. Henry Toler, III

Movant filed his Motion for Supersedeas Pending and Bond (sic) pursuant to Rule 50, now Rule 40 (b), seeking emergency relief in connection with a finding of contempt against him by Judge Melodie Clayton, State Court of Cobb County.

Movant has failed to file a copy of the order being appealed pursuant to Court of Appeals Rule 40 (b) (i). Movant acknowledges that the contempt order was reduced to writing. Movant represents that Judge Clayton did not deny supersedeas, she simply refused to sign the order submitted by Movant for that purpose.

Movant does not indicate why Judge Clayton refused to sign the supersedeas order, or point to any error in her having done so. No copy of the subject order is included in the record before this Court. Therefore, there is no basis for this Court to grant Movant's emergency motion and same is hereby denied.

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

MAY 29 2002

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

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

[Handwritten Signature]
....., Clerk.

MOTIONS DOCKET

JUDGE # _____ MOTION DOCKET NUMBER 335

DATE: 5-24-02 REC #: 3380 PAID BY: _____

CHARGE: Contempt

STYLE: In Re Contempt Proceedings

ATTY. NT: T. Jeff Goodwyn
2894 P. Blvd. Rd 719
Atl 30305

ATTY. EE: Solicitor General Barry E Morgan
Cobb State Ct. 12 E. Park St Ste 101B
Marietta 30090

LOWER CT. JUDGE: Melodie Clayton - Div I, 12 E. Park Sq, Ste 3B
LOWER CT. CASE # 01T31288, 01T38711 Marietta 30090
COUNTY: Cobb Jay C. Stephenson
Box 3370, Marietta 30061-3370

BRIEFS FILED: NT

JUDGEMENT DATE: 5/24/02 JUDGMENT: Motion Denied
5/29/02 Sub. order - " "

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

Court of Appeals of the State of Georgia

ATLANTA, MAY 24 2002

The Court of Appeals hereby passes the following order:

MD 335. In Re: W. Henry Toler, III

Movant filed his Motion for Supersedeas Pending and Bond (sic) pursuant to Rule 50 (now Rule 40 (b)), seeking emergency relief in connection with a finding of contempt against him by Judge Melody Clayton, State Court of Cobb County.

Movant has failed to file a copy of the order being appealed pursuant to Court of Appeals Rule 40 (b) (i). Movant acknowledges that the contempt order was reduced to writing. Movant represents that Judge Clayton did not deny supersedeas, she simply refused to sign the order submitted by Movant for that purpose.

Movant does not indicate why Judge Clayton refused to sign the supersedeas order, or point to any error in her having done so. No copy of the subject order is included in the record before this Court. Therefore, there is no basis for this Court to grant Movant's emergency motion and same is hereby denied.

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

MAY 24

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

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

Will L. ..., Clerk.

MOTIONS DOCKET

JUDGE # 97 MOTION DOCKET NUMBER 336

DATE: 6/5/02 REC #: 3487 PAID BY: Phyllis A. Watkins

CHARGE: Emergency Injunction

STYLE: Shannon DeAnne Hill v. Johnny Wayne Cook

ATTY. NT: Phyllis A Watkins
3951 Snapping Shoals Pkwy
St. 500
Decatur 30035

ATTY. EE: Regina E. McMillan
P.O. Box 960490
Haverdale 30296-0490

LOWER CT. JUDGE: R. Timothy Hamil
LOWER CT. CASE # 02A-2513-8
COUNTY: Gwinnett

GWINNETT Justice Admin. CTR.
75 LANGLEY DR
LAWRENCEVILLE 30045-6935

TOM LAMER
Box 880
LAWRENCEVILLE, 30046-0880

BRIEFS FILED: _____

JUDGEMENT DATE: 6/5/02 JUDGMENT: Denied

M.F.R. FILED: _____
REPOSSES: _____

N.O.I. FILED: _____

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

ATLANTA, JUN 5 2002

The Court of Appeals hereby passes the following order:

**MOTION DOCKET 336. SHANNON DEANNE HILL v. JOHNNY
WAYNE COOK**

Shannon DeAnne Hill has filed a Rule 40(b) Motion for Emergency Supersedeas asking this Court to stay the trial court's order permitting an inventory of personal property in the marital estate. There is no indication that movant has attempted to appeal the trial court's order with an interlocutory application. See Court of Appeals Rule 40(b)(ii).

At this point in time, it appears the trial court's order only concerns an inventory of the personalty located at the marital residence. Movant is not without an adequate remedy should the respondent fail to comply with the trial court's order insofar as the inventory is concerned.

While the parties may have some disagreement about the terms, conditions and effect of the mediation, this Court cannot say that the trial court has abused its discretion. The Rule 40(b) Motion is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 5 2002

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

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

William Z. Mat... Clerk.

MOTIONS DOCKET

DATE 7/12/02 MOTION DOCKET # 99 337

COSTS PAID BY: Dennis Byrd
RECEIPT # 3783

CHARGE _____

STYLE _____

ATTY. FOR APLT Ralph J. Villani
2055 - C Bend Hwy, N. Ste 404
Smellville 30078-6167

ATTY. FOR APLE J. Tom Moran, PA
700 DeKalb Cty Ctrs.
536 Mc Donough St, Decatur 30030

LOWER CT. JUDGE _____
LOWER CT. # 02CR1322-9
COUNTY DeKalb

OUR JUDGE'S CODE 99 337

BRIEFS FILED _____

JUDGMENT DATE: 7/12/02 JUDGMENT: denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

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

ATLANTA, 'JUL 12 2002'

The Court of Appeals hereby passes the following order:

MOTION DOCKET 337. BYRD v. STATE.

Appellant has filed an emergency motion pursuant to Court of Appeals Rule 40 (b) requesting that this Court enjoin the trial court from proceeding to trial in this criminal action on Monday, July 15, 2002, for failure of the State to provide responses to appellant's discovery requests. Appellant has filed a request for a speedy trial pursuant to OCGA § 17-7-170. OCGA § 17-16-6 provides the trial court with discretion to implement various remedies for the State's failure to comply with discovery requests and does not mandate that the trial court grant a continuance especially under circumstances such as this where a speedy trial demand has been filed. Therefore, appellant's motion is denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 12 2002

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

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

William Z. Martin, Clerk.

MOTIONS DOCKET

DATE Sept. 9, 2002 MOTION DOCKET # 338

COSTS PAID BY: _____

RECEIPT # 74285

CHARGE Custody

STYLE Michelle Durham f/h/a Gipson v.

ATTY. FOR APLT Jeanney M. Kutner
Susan M. Reimer
Arlic Jerome Gipson

ATTY. FOR APLE Carl J. Surratt

LOWER CT. JUDGE Duncan D. Wheale

LOWER CT. # _____

COUNTY Richmond

OUR JUDGE'S CODE 91

BRIEFS FILED NT

JUDGMENT DATE: 9-12-02 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, SEP 12 2002

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

Motions Docket 338. Gipson v. Gipson

On September 9, 2002, Michele Durham filed an emergency supersedeas in a child custody case. She also filed an application for discretionary review of the trial court's order (A03D0031). However, OCGA § 15-11-3 provides that no final order of a juvenile court judge "shall be superseded except in the discretion of the judge; rather, the judgment or order of the court shall stand until reversed or modified by the reviewing court." It appears, therefore, that the granting of supersedeas in the present case is a matter left entirely in the judge's discretion, and that we are without jurisdiction to grant supersedeas in such a case. Durham's motion for supersedeas is denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 12 2002

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

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

Clerk.

Will Z. Martin, III

MOTIONS DOCKET

DATE 9-27-02 MOTION DOCKET # 339

COSTS PAID BY: Pumper
RECEIPT # 9999

CHARGE _____

STYLE Vasile Florescu

ATTY. FOR APLT Ralph J. Villani 727700
2055 - C Scenic Hwy N.
Suite 404
Snellville, GA 30078-6167

ATTY. FOR APLE Gwinnett Co. Solicitor
Gerald Blaney, Jr.

LOWER CT. JUDGE Hon. Pamela South
LOWER CT. # _____
COUNTY _____

OUR JUDGE'S CODE 71

BRIEFS FILED NT

JUDGMENT DATE: 9-30-02 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, September 30, 2002

The Court of Appeals hereby passes the following order:

MD339. FLORESCU v. THE STATE.

Vasile Florescu, defendant in a misdemeanor trial scheduled for October 7, has moved this Court under Georgia Court of Appeals Rule 40 (b) to order the trial court to continue the trial until the last week of October, just before the time runs out to try Florescu based on his speedy trial demand. Florescu claims that a family emergency of his counsel, possible lack of transcripts, and inadequate time to prepare for the trial mandate that this Court order the continuance.

Florescu has submitted no evidence to support any of the allegations made in his emergency motion. Nor has he explained the nature of the family emergency, the type of misdemeanor with which he is charged, why a mistrial of this case was declared on September 4, the efforts he has made to investigate the case since the mistrial, or other matters. If Florescu's motion were granted, he in effect would be forcing the trial court to try him during a particular one-week period that happens to fit his counsel's schedule. We do not countenance such manipulations. On the other hand, if Florescu chose to withdraw his speedy trial demand, then his request for continuance could be reconsidered by the trial court.

Accordingly, it is hereby ordered that Florescu's emergency motion be DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 2002

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

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

W. Z. Martin, Jr., Clerk.

MOTIONS DOCKET

DATE 10-7-02 MOTION DOCKET # 340

COSTS PAID BY: Pauper
RECEIPT # _____

CHARGE Stalking - Motion to Quash

STYLE Vasile Florescu v. The State

ATTY. FOR APLT Ralph J. Villani
2055C Scenic Hwy N.
Suite 404
Snellville, Ga 30078-6167

770 985-
6773

ATTY. FOR APLE Derald Blaney
Swinnett Justice & Adm. Center
75 Langley Drive
Lawrenceville - Ga 30245

cell
404 353
6827

LOWER CT. JUDGE Valerie Head for Pam South
LOWER CT. # 2002D-4122-3
COUNTY Swinnett State

Swinnett Justice
& Adm. Center
75 Langley Dr.
Lawrenceville, Ga
30045

OUR JUDGE'S CODE 91

BRIEFS FILED NT

JUDGMENT DATE: 10-7-02 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, OCTOBER 07, 2002

The Court of Appeals hereby passes the following order:

MD340. FLORESCU v. THE STATE.

Vasile Florescu, for the second time in just over a week, has moved this court under Georgia Court of Appeals Rule 40 (b) to order the trial court to continue the trial of his case until the last week of October, just before the time runs out to try Florescu based on his speedy trial demand. As we previously ruled: "Florescu has submitted no evidence to support any of the allegations made in his emergency motion.... If Florescu's motion were granted, he in effect would be forcing the trial court to try him during a particular one-week period that happens to fit counsel's schedule. *We do not countenance such manipulations.* On the other hand, if Florescu chose to withdraw his speedy trial demand, then his request for continuance could be reconsidered by the trial court." (Emphasis supplied.) *Florescu v. The State*, MD 339 (September 30, 2002).

The instant motion, filed on the day Florescu's case was scheduled for trial, is equally without evidentiary support. Moreover, Florescu has a remedy at law, that is, to enumerate as error upon appeal any abuse of discretion in denying him a continuance. Finally and more importantly, this motion is a patent manipulation of the emergency motion process, plainly designed to force a continuance during the pendency of the appeal. The defendant and his attorney, Ralph J. Villani, are hereby warned that any further abuse of the emergency motion process will result in the imposition of frivolous appeal penalties pursuant to Court of Appeals Rule 15 (b).

Accordingly, it is hereby ordered that Florescu's emergency motion be **DENIED.**

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT - 7 2002*

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

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

Will. L. Marti, Jr.
Clerk

MOTIONS DOCKET

DATE 11/15/02 MOTION DOCKET # 341

COSTS PAID BY: Sarland, Samuel & Loeb
RECEIPT # 74895

CHARGE Bond Denied

STYLE Arthur Allen et al v. The State

ATTY. FOR APLT Manubri S. Arora + Edward T. M. Sarland
Sarland Samuel & Loeb
3151 Maple Drive, N.E.
Atlanta, Georgia 30305 (404) 262-2225

ATTY. FOR APLE Marc Mallon
Assistant County Ass. D.A.
136 Pryor Street S.W.
Atlanta, Georgia 30303

LOWER CT. JUDGE T. Jackson Bedford, Jr.
LOWER CT. # 02500433
COUNTY Fulton Superior

OUR JUDGE'S CODE 70

BRIEFS FILED NT 11-15-02

JUDGMENT DATE: 11-15-02 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 15 2002

The Court of Appeals hereby passes the following order:

MOTION DOCKET 341. ARTHUR ALLEN et al. v. STATE OF GEORGIA

On October 17, 2002, Arthur Allen, Jr., and the other appellants were convicted of the felony offenses of cruelty to children in the first degree and aggravated assault, and they were sentenced to imprisonment for periods ranging from 20 to 90 days followed by probation. Following a hearing, the trial court denied their motion to continue bond pending appeal by written order entered on November 15, 2002, nunc pro tunc to the October 24, 2002 date of the appeal bond hearing. Appellants have filed an emergency motion asking this court to reverse the trial court's decision.

"Granting or refusing to grant bail in non-capital felony cases after indictment and conviction is a matter within the sound discretion of the trial court; this Court will not control that discretion unless it has been flagrantly abused. *Birge v. State*, 238 Ga. 88, 89 (230 SE2d 895) [(1976)]. 'The burden of seeking a stay of execution and release may properly be placed on the appellant.' *Id.* Pursuant to the holding in *Birge*, supra, 'the trial court should not grant bond unless defendant meets his burden of presenting sufficient evidence to convince the trial court that (1) there is no substantial risk the applicant will flee, (2) he is unlikely to commit a serious crime, (3) he will not intimidate witnesses or otherwise interfere with the administration of justice, and (4) his appeal is not frivolous or taken for delay.' *Prayor v. State*, 214 Ga. App. 132 (447 SE2d 155) [(1994)]; *Birge*, supra at 90. Thus, unless the trial court determines in the exercise of its sound discretion that there exists no substantial risk as to each and every one of the above factors, it should not grant the defendant's release." *Williams v. State*, 228 Ga. App. 289, 290-291 (2) (491 SE2d 500) (1997).

We cannot say that the trial court abused its discretion in finding that appellants did not carry their burden of showing they are unlikely to continue to commit the serious crimes of which they were convicted if they are released on appeal and that their appeal is not frivolous. Appellants' emergency motion and their request for oral argument are denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 15 2002

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

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

Will. L. Mart,  *clerk.*

MOTIONS DOCKET

DATE 11-26-02 MOTION DOCKET # 342

COSTS PAID BY: Griffin, Chohan & Marshall
RECEIPT # 5002

CHARGE Motion for Superseals

STYLE La Forge Bldg Materials, Inc v. Watkins
Engineers & Co

ATTY. FOR APLT W. Henry Parkman

ATTY. FOR APLE _____

LOWER CT. JUDGE Bensonetta Lane
LOWER CT. # Fulton Superior
COUNTY Fulton

OUR JUDGE'S CODE _____

BRIEFS FILED NT

JUDGMENT DATE: 11-27-02 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 27 2002

The Court of Appeals hereby passes the following order:

MD342. LAFARGE BUILDING MATERIALS, INC. v. WATKINS ENGINEERS AND CONSTRUCTORS, INC.

Watkins Engineers and Constructors, Inc. sought to arbitrate certain claims against Lafarge Building Materials, Inc., pursuant to the parties' contract. Lafarge filed a motion to stay arbitration in Fulton County Superior Court, pursuant to OCGA § 9-9-6 (b) (2), contending that Watkins had failed to comply with contractual provisions providing for arbitration. After a hearing, the superior court issued an order denying the motion, compelling the parties to arbitrate, and dismissing the case. Lafarge filed a notice of appeal. (It also subsequently filed in the superior court an emergency motion to grant supersedeas of the superior court's order, which the superior court denied and again ordered the parties to proceed with arbitration.)

Lafarge has filed an emergency motion in this court, seeking a supersedeas to stay the arbitration. Upon consideration of Lafarge's motion, the same is hereby DENIED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* NOV 27 2002

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

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

....., Clerk.

Will. Z. Mart, JR

MOTIONS DOCKET

DATE 2/18/03 MOTION DOCKET # 343

COSTS PAID BY: William Ellis
RECEIPT # 73700

CHARGE Dispossession
Eva M. Ellis +

STYLE William Ellis v. Plantation Properties

ATTY. FOR APLT William Candler Ellis
5211 Long Island Drive
Atlanta Ga 30327

404 255-2728

ATTY. FOR APLE John R. Gimes
11 Piedmont Center, Suite 809
Atlanta, Ga 30305

LOWER CT. JUDGE Jim Broyles
LOWER CT. # 2002 CV 63064
COUNTY Fulton Superior

OUR JUDGE'S CODE 96

BRIEFS FILED _____

JUDGMENT DATE: 2/19/03 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, February 19, 2003

The Court of Appeals hereby passes the following order:

MOTION DOCKET 343. PLANTATION PROPERTIES, INC. v. ELLIS et al.

William Ellis has filed an emergency motion with this Court, seeking a review of the denial of his motion to enjoin the execution of a writ of possession issued to Plantation Properties.

According to Court of Appeals Rule 40 (b), this Court's inherent power to issue emergency orders to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot should be exercised sparingly. This is particularly true in an undocketed appeal, as here. Ellis' reasons for this extraordinary procedure of an emergency motion focus on errors he alleges occurred in the court below, or anticipates may occur in a hearing scheduled for February 20, 2003. Nothing in the motion and other documents he has filed in this Court persuades us that an emergency motion must be granted to preserve our jurisdiction or to prevent any of the issues he raises from becoming moot. Accordingly, the motion is **DENIED**.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 19 2003

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

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

Will. L. Mart, Clerk.

MOTIONS DOCKET

DATE 3-17-03 MOTION DOCKET # 344

COSTS PAID BY: Joseph Vankemeni
RECEIPT # 75923

CHARGE Bribery

STYLE Woodson R. Hart v. The State

ATTY. FOR APLT Joseph Vankemeni
919 West First Avenue
Albany, Ga 31701

ATTY. FOR APPE Kenneth B. Hodges
Douglas County Courthouse
225 Pine Avenue
Albany, Georgia 31701

LOWER CT. JUDGE John D. Crosby
LOWER CT. # 00 R. 1096
COUNTY Douglas

OUR JUDGE'S CODE 98

BRIEFS FILED M- 3-17-03
R 3-17-03

JUDGMENT DATE: 3-17-03 JUDGMENT: Granted

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, MAR 17 2003

The Court of Appeals hereby passes the following order:

Motion Docket No. 344. The State v. Hart.

Woodson R. Hart had been serving time in a federal correction facility in Arkansas, and it appears that, during this time, a detainer was mistakenly placed against Mr. Hart in connection with a sentence imposed against him in Georgia on March 1, 2001. On February 6, 2003, the Superior Court of Dougherty County, after reviewing the transcript from Hart's Plea and Sentencing Hearing on his crime in Georgia, clarified Hart's sentence, to reflect the sentence it actually intended to impose on March 1, 2001. In order to comply with the clarified sentence, the trial court ordered that (1) the detainer placed against Hart be removed and (2) Hart serve no additional time in a Georgia correctional facility after he was released from the Arkansas correctional facility on March 14, 2003.

On March 12, 2003, the District Attorney of Dougherty County filed a notice of appeal with this Court, taking issue with the trial court's correction and clarification of Hart's sentence. At the same time, the District Attorney, in spite of and in direct opposition to the trial court's clarification order, requested that the Georgia Department of Corrections reinstate the detainer against Hart, requiring him to report to Jackson State Prison on March 17, 2003. The District Attorney also indicated that, if Hart failed to show up, a fugitive warrant would be taken out against him.

In response to the District Attorney's action, on March 15, 2003, the trial court considered and granted a motion by Hart for supersedeas bond. In its order, the trial court explicitly ruled, in pertinent part:

4. If Bond is not granted [Hart] faces the prospect of serving three and a half months in prison contrary to the Order of this Court directing that he serve no additional time in a Georgia State Prison once released from the Federal Prison System.

5. If Bond is not granted [Hart] faces the prospect of serving much if not all of the three and a half months the State is seeking before the Court of Appeals will make a decision in this case. The undersigned originally sentenced [Hart], and it was my intent that [Hart] not serve any additional state prison time after release from federal prison.

Given the trial court's order clarifying his original intent in sentencing Hart and its order granting supersedeas bond, the District Attorney is not free to disregard the orders of the Dougherty Superior Court or to seek detainer against Hart, force Hart to serve additional time in a Georgia prison, prior to the overruling or vacation of the trial court's order, or to seek a fugitive warrant against Hart for failing to serve such time.

The District Attorney contends that, by filing a notice of appeal, the trial court's original order clarifying Hart's sentence was immediately rendered null and void. This contention is patently erroneous. OCGA § 5-6-45 (a) provides: "In all criminal cases, the notice of appeal filed as provided in Code Sections 5-6-37 and 5-6-38 shall serve as supesedeas in all cases where a sentence of death has been imposed or where the defendant is admitted to bail." Neither is the case here.

Nonetheless, in defiance of the trial court's order, the District Attorney has sought to ensure that Hart serves three-and-one-half months of additional incarceration by fashioning his own remedies, as it would take the appellate court that long to rule on his appeal. However, pursuant to the trial court's order issued on February 6, 2003, Hart has already served his time in jail. An order of a Superior Court is presumed to be valid and enforceable until it is overruled or vacated by an appellate court or an authorized trial court. The District Attorney simply has no authority to subjugate an

order of the Superior Court to his own will, thereby circumventing the orderly imposition of justice.

Moreover, at this time, the trial court has issued a valid order granting supersedeas bond which the District Attorney is not free to ignore. The trial court has been given the statutory authority to grant supersedeas bonds, and this authority must be respected. See OCGA § 5-6-45; OCGA § 17-6-1.

Accordingly, the District Attorney must comply with the trial court's orders in this case. He has presented this Court with no evidence of record or legal authority which would allow him to circumvent these rulings. Given the fact that Hart has completely served his time under the existing order of the trial court, the State has no lawful authority to incarcerate him at this time. As such, the District Attorney may not seek to impose a detainer against Hart or subject him to further imprisonment for the crimes underlying this matter, and any attempt to do so is at his own risk.

In accordance with this order, Hart shall be released from the custody of Jackson State Prison instantler. Hart, Hart's counsel, the District Attorney, and the Warden of Jackson State Prison shall be notified of this decision immediately, and copies of this order will also immediately be conveyed to these parties.

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

17 2006

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

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

C. Will. L. Martz, JR. , Clerk.

MOTIONS DOCKET

DATE 3-20-03 MOTION DOCKET # 345

COSTS PAID BY: pauper
RECEIPT # 9999

CHARGE Indigent Status

STYLE Lashonne Howell v. Commonwealth Acypt Corp et al

ATTY. FOR APLT La Shonne S. Howell
P.O. Box 161
Avondale Estates, GA 30002 7-484-6611

ATTY. FOR APLE Steven S. Edwards
150 E. Ponce De Leon Ave. Ste 260
Decatur, GA 30030

LOWER CT. JUDGE Melodie Snell Conner
LOWER CT. # 02A 076847
COUNTY Spinnett Superior Court

OUR JUDGE'S CODE 98

BRIEFS FILED Movant

JUDGMENT DATE: 3/21/03 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

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

ATLANTA, MAR 21 2003

The Court of Appeals hereby passes the following order:

Motion Docket No. 345. Howell v. Commonwealth Acceptance Corp. et al.

In the above-referenced case, LaShonne S. Howell has filed an emergency motion with this Court asking that we review and reverse a finding by the trial court that she is not indigent and may not proceed *in forma pauperis*. Howell states in her motion that the trial court received evidence on her claim of indigency, but found that she had not satisfied her burden of proof.

The ruling of the trial court on all issues of fact concerning the ability of a party to pay costs . . . is final under the provisions of OCGA § 9-15-2 (b) and is not subject to review. The factual issue of [Howell's] indigency was submitted to the trial court and resulted in the determination that [she] lacked that status based upon the record. This ruling is final and not subject to review by this [C]ourt.

(Punctuation omitted.) *Morris v. Dept. of Transp.*, 209 Ga. App. 40 (432 SE2d 638) (1993).

Accordingly, Howell's motion in this matter is denied.

Court of Appeals of the State of Georgia MAR 21 2003
Clerk's Office, Atlanta

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

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

Will. L. Martini , Clerk.

MOTIONS DOCKET

DATE 3/28/03 MOTION DOCKET # 346

COSTS PAID BY: Barker & Asso. P.C.
RECEIPT # _____

CHARGE Supersedeas

STYLE Andre P. Barker

ATTY. FOR APLT Pro Se

ATTY. FOR APLE Charles H. Van Horn

LOWER CT. JUDGE J. Linda Hunter
LOWER CT. # _____
COUNTY DeKalb

OUR JUDGE'S CODE 97

BRIEFS FILED NT

JUDGMENT DATE: 3-28-03 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

MOTIONS DOCKET

DATE 4-25-03 MOTION DOCKET # 347

COSTS PAID BY: Cumberland Properties
RECEIPT # 76305

CHARGE Motion to Stay

STYLE Cumberland Development v. Ronald S. Lennethall

ATTY. FOR APLT Lee M. Bagel

ATTY. FOR APLE Glen E. Stinson

LOWER CT. JUDGE J. Stephen Shuster
LOWER CT. # 206
COUNTY Lobb

OUR JUDGE'S CODE _____

BRIEFS FILED NT

JUDGMENT DATE: _____ JUDGMENT: _____

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

MOTIONS DOCKET

DATE 4-25-03 MOTION DOCKET # 348

*m o **
349

COSTS PAID BY: Arnall Golden Gregory
RECEIPT # 76309

CHARGE Injunctive Relief

STYLE Baptist Convention of the State of Georgia v. Shorter College et al

ATTY. FOR APLT Walter H. Bush Thomas O. Duwall
2800 One Atlanta Center Andrew B. Blake
1201 W. Peachtree Street
Atlanta, Georgia 30309-3450

ATTY. FOR APLE see attached list

LOWER CT. JUDGE Daniel M. Coursey
LOWER CT. # 02119857
COUNTY DeKalb Superior

OUR JUDGE'S CODE 97

BRIEFS FILED NT
EE - 4-25-03

JUDGMENT DATE: 4/30/03 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, April 30, 2003

The Court of Appeals hereby passes the following order:

Motion Docket Nos. 348, 349. BAPTIST CONVENTION OF THE STATE OF GEORGIA et al. v. SHORTER COLLEGE et al.; PRICE et al. v. SHORTER COLLEGE et al.

Appellants Baptist Convention of the State of Georgia and The Executive Committee of the Baptist Convention of the State of Georgia filed an Emergency Motion for Relief pursuant to Court of Appeals Rule 40 (b), requesting that this court review the trial court's order vacating a temporary restraining order preventing the dissolution of Shorter College and transfer of its assets to a new Shorter College Foundation created for the purpose. Seven members of the Shorter College board of trustees filed another emergency motion making essentially the same request. The appeal is not yet docketed, and this Court does not have the benefit of the record below.

Shorter College and the Shorter College Foundation have responded, asserting two arguments in opposition to the emergency motion. First, they contend that jurisdiction of this appeal properly lies in the Georgia Supreme Court. They also contend that the motion should be dismissed because it is moot.

We first consider the question of jurisdiction. The Georgia Constitution provides that the Supreme Court shall have appellate jurisdiction of “all equity cases.” Ga. Const. of 1983, Art. VI, Sec. VI, Par III (2). That jurisdiction has been limited, however, to exclude appeals in which equitable relief is merely “ancillary.” *Pittman v. Harbin Clinic Professional Assn.*, 263 Ga. 66 (428 SE2d 328) (1993). More specifically, “[f]or a matter to come within [the Supreme] Court’s equity jurisdiction, the lower court must have rendered a judgment based upon equitable principles, and that decision must be the primary issue on appeal.” *Warren v. Board of Regents*, 272 Ga. 142, 145 (527 SE2d 563) (2000).

Here, the only issues ruled upon by the trial court are questions of law: the voting rights of members under the terms of the Shorter charter, and the propriety under the charter and the Georgia Corporations Code of the membership, process of dissolution, and distribution of assets. Jurisdiction is therefore properly with this court, and we consider this emergency motion.

Rule 40 (b) provides in pertinent part:

In the exercise of its inherent power this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power will be exercised sparingly. Generally, no order will be made or direction given in an appeal until it has been docketed in this Court.

The trial court's order on all pending motions in this case was entered on April 22, 2003. On April 24, the Georgia Secretary of State issued a Certificate of Dissolution nunc pro tunc April 23. This emergency motion was not filed until April 25. Consequently, any mootness which appellants sought to prevent by staying the dissolution had already occurred at the time the motion was filed.

Appellants' emergency motions for a stay pending appeal are therefore DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 30 2003

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

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

Will. L. Martin, JR., Clerk.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served opposing counsel with the foregoing **EMERGENCY MOTION FOR STAY PENDING APPEAL OR FOR INSTRUCTION TO TRIAL COURT IN ACCORDANCE WITH COURT OF APPEALS RULE 40(B)** by hand delivery, perfected prior to filing with the Court of Appeals, to the following addresses:

David F. Guldenschuh, Esq.
John M. Graham, III, Esq.
Smith, Shaw & Maddox, LLP
100 E. 2nd Ave – 4th Floor
Rome, Georgia 30161
(by mail and facsimile only)

Bruce P. Brown, Esq.
McKenna Long & Aldridge, L.L.
303 Peachtree Street, N.E.
Suite 5300
Atlanta, Georgia 30308

Richard L. Robbins, Esq.
Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, Georgia 30309-3996

Joel D. Bush, II, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309

This 25th day of April, 2003.



Andrew B. Flake

ARNALL GOLDEN GREGORY LLP
2800 One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
(404) 873-8500
(404) 873-8501

MOTIONS DOCKET

DATE 4/25/03 MOTION DOCKET # 349

cc *
349

COSTS PAID BY: Southeastland Asbill + Brennan
RECEIPT # 76211

CHARGE Injunctive Relief

STYLE Nelson Price et al v. Shorter College

ATTY. FOR APLT Richard L. Robbins Thomas A. Cox
999 Peachtree St. N.E. Valerie S. Sanders
Atlanta, Georgia 30309

ATTY. FOR APLE see list

LOWER CT. JUDGE Daniel M. Courney, Jr.
LOWER CT. # 02 119857
COUNTY DeKalb Superior

OUR JUDGE'S CODE 97

BRIEFS FILED _____

JUDGMENT DATE: 4/30/03 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of April, 2003, served copies of the foregoing **EMERGENCY MOTION FOR STAY OF ORDER PENDING APPEAL** by overnight delivery, with courtesy copy by facsimile, to:

David F. Guldenschuh, Esq.
John M. Graham, III, Esq.
SMITH, SHAW & MADDOX, LLP
P.O. Box 29
Rome, Georgia 30162-0029

and by hand delivery to:

Bruce P. Brown, Esq.
McKENNA LONG & ALDRIDGE, L.L.P.
303 Peachtree Street, N.E., Suite 5300
Atlanta, Georgia 30308

and

Walter H. Bush, Jr.
ARNALL GOLDEN & GREGORY LLP
2800 One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309.



Valerie S. Sanders

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of February, 2003, served
copies of the foregoing **INTERVENOR TRUSTEES' BRIEF IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION, AND IN OPPOSITION TO
MOTION OF SHORTER COLLEGE FOR PARTIAL SUMMARY
JUDGMENT** by overnight delivery, with courtesy copy by facsimile, to:

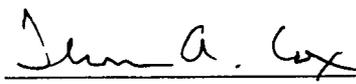
David F. Guldenschuh, Esq.
John M. Graham, III, Esq.
SMITH, SHAW & MADDOX, LLP
P.O. Box 29
Rome, Georgia 30162-0029

and by hand delivery to:

Bruce P. Brown, Esq.
McKENNA LONG & ALDRIDGE, L.L.P.
303 Peachtree Street, N.E., Suite 5300
Atlanta, Georgia 30308

and

Walter H. Bush, Jr.
ARNALL GOLDEN & GREGORY LLP
2800 One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309.



Thomas A. Cox

Court of Appeals of the State of Georgia

ATLANTA, April 30, 2003

The Court of Appeals hereby passes the following order:

Motion Docket Nos. 348, 349. BAPTIST CONVENTION OF THE STATE OF GEORGIA et al. v. SHORTER COLLEGE et al.; PRICE et al. v. SHORTER COLLEGE et al.

Appellants Baptist Convention of the State of Georgia and The Executive Committee of the Baptist Convention of the State of Georgia filed an Emergency Motion for Relief pursuant to Court of Appeals Rule 40 (b), requesting that this court review the trial court's order vacating a temporary restraining order preventing the dissolution of Shorter College and transfer of its assets to a new Shorter College Foundation created for the purpose. Seven members of the Shorter College board of trustees filed another emergency motion making essentially the same request. The appeal is not yet docketed, and this Court does not have the benefit of the record below.

Shorter College and the Shorter College Foundation have responded, asserting two arguments in opposition to the emergency motion. First, they contend that jurisdiction of this appeal properly lies in the Georgia Supreme Court. They also contend that the motion should be dismissed because it is moot.

We first consider the question of jurisdiction. The Georgia Constitution provides that the Supreme Court shall have appellate jurisdiction of "all equity cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par III (2). That jurisdiction has been limited, however, to exclude appeals in which equitable relief is merely "ancillary." *Pittman v. Harbin Clinic Professional Assn.*, 263 Ga. 66 (428 SE2d 328) (1993). More specifically, "[f]or a matter to come within [the Supreme] Court's equity jurisdiction, the lower court must have rendered a judgment based upon equitable principles, and that decision must be the primary issue on appeal." *Warren v. Board of Regents*, 272 Ga. 142, 145 (527 SE2d 563) (2000).

Here, the only issues ruled upon by the trial court are questions of law: the voting rights of members under the terms of the Shorter charter, and the propriety under the charter and the Georgia Corporations Code of the membership, process of dissolution, and distribution of assets. Jurisdiction is therefore properly with this court, and we consider this emergency motion.

Rule 40 (b) provides in pertinent part:

In the exercise of its inherent power this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power will be exercised sparingly. Generally, no order will be made or direction given in an appeal until it has been docketed in this Court.

The trial court's order on all pending motions in this case was entered on April 22, 2003. On April 24, the Georgia Secretary of State issued a Certificate of Dissolution nunc pro tunc April 23. This emergency motion was not filed until April 25. Consequently, any mootness which appellants sought to prevent by staying the dissolution had already occurred at the time the motion was filed.

Appellants' emergency motions for a stay pending appeal are therefore DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 30 2003

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

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

Will. L. Martin, Jr. Clerk.

MOTIONS DOCKET

DATE 5-7-03 MOTION DOCKET # 350

COSTS PAID BY: Irene Stephens
RECEIPT # 76417

CHARGE Dispossessory - Supersedeas Relief

STYLE Irene Stephens v. Equity Management

ATTY. FOR APLT Irene L. Stephens
3 Azalea Road
Sucker, Ga 30084

ATTY. FOR APLE J. Mike Williams
Fowler, Hein, Cheatwood, Pessens + Williams
2970 Clairmont Road, Suite 220
Atlanta Georgia 30329

LOWER CT. JUDGE Dawson Jackson
LOWER CT. # 02A096453
COUNTY Dwinnell Superior

OUR JUDGE'S CODE 97

BRIEFS FILED _____

JUDGMENT DATE: 5-7-03 JUDGMENT: Denial

M.F.R. FILED 6/6/03 entirely -> Dismissed 6/6/03 RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, May 7, 2003

The Court of Appeals hereby passes the following order:

MD350. STEPHENS v. EQUITY MANAGEMENT COMPANY.

Irene Stephens was involved in a landlord-tenant dispute with Equity Management Company, which the superior court dismissed as moot. The superior court also declined to sanction Equity Management and its counsel, as requested by Stephens. Stephens has appealed the superior court's order, and she has filed a motion in this Court seeking extraordinary relief. Specifically, she asks this Court to "hold a hearing . . . and render a legal determination" as to whether she is entitled to remain in possession of the premises.

Court of Appeals Rule 40 (b) provides, in pertinent part, that this Court "may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power will be exercised sparingly." Nothing in this rule permits us to conduct hearings. Indeed, this Court serves to correct legal errors, not to address

factual disputes.¹ Accordingly, Stephens' motion seeks relief that this Court does not provide, and it is hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY - 7 2003**

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

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

Will. L. Mart  *erk.*

¹ See *Lowe v. Brook Property*, 241 Ga. App. 840 (528 SE2d 284) (2000).

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

ATLANTA, June 6, 2003

The Court of Appeals hereby passes the following order:

MD350. STEPHENS v. EQUITY MANAGEMENT COMPANY.

Upon consideration of the Motion for Reconsideration filed on behalf of Appellant in the above styled case, it is hereby ordered that the Motion for Reconsideration is hereby dismissed as untimely filed.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta June 6, 2003

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

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

Clerk.



MOTIONS DOCKET

DATE 5/16/07 MOTION DOCKET # 351

COSTS PAID BY: Jim Herring
RECEIPT # 76538

CHARGE Supersedeas Bond

STYLE In the interest of A.F.A., and J.C.H. children

ATTY. FOR APLT Timothy Herring
142 Mitchell Street
Suite 215
Atlanta, Ga 30303 404 521-1999

ATTY. FOR APLE Sammy Griner
P.O. Box 319
Griffin, Ga 30224

LOWER CT. JUDGE A. Ronald Cook

LOWER CT. # 0300246 + 0300345

COUNTY Jaytte Juvenile Phyllis Harris
165 S. Jeff Davis Drive
Jaytteville, Ga
30214

OUR JUDGE'S CODE 97

BRIEFS FILED NT

JUDGMENT DATE: 5/20/03 JUDGMENT: (1) Remanded
(2) Denied

M.F.R. FILED 5/22/03 Denied RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MD351. In Re A. F. A. et al.

The Fayette County juvenile court adjudicated A. F. A. and J. C. H. (“appellants”) delinquent. Appellants filed notices of appeal and moved the juvenile court for a supersedeas bond. The juvenile court denied their motion. Appellants have now filed an emergency motion with this Court, asking that we direct the juvenile court to issue a supersedeas bond and stay all proceedings in the case. Claiming indigence, appellants further request that we order the juvenile court to pay for a copy of the trial transcript.

1. Decisions regarding whether to grant supersedeas in a juvenile court case rest entirely within the juvenile judge’s discretion. As provided in OCGA § 15-11-3:

In all cases of final judgments of a juvenile court judge, appeals shall be taken to the Court of Appeals or the Supreme Court in the same manner as appeals from the superior court. However, *no such judgment or order shall be superseded except in the discretion of the judge*; rather, the judgment or order of the court shall stand until reversed or modified by the reviewing court.¹

Through their emergency motion, the appellants ask us to usurp the juvenile court’s power and grant them supersedeas pending appeal. Because this request, if granted, would be violative of OCGA § 15-11-3, it is hereby denied.

¹(Emphasis supplied.)

Nevertheless, it appears that the juvenile court may have mistakenly concluded that it lacked the authority to entertain appellants' motion for supersedeas bond. According to the appellants, the juvenile court judge orally denied their request, stating "[t]here is no supersedeas [b]ond in Juvenile Court." Because the juvenile court possibly denied appellants' request based on an erroneous legal conclusion, rather than an exercise of discretion, we must remand to the juvenile court for further proceedings.² Upon remand, the trial court shall exercise its discretion under OCGA § 15-11-3 in ruling on appellants' request for supersedeas bond.

2. Claiming indigent status, appellants also ask us to order Fayette County to pay for the trial transcript in this case. But appellants have not shown – or even alleged – that they moved the juvenile court for an indigency determination or asserted below that they are entitled to a free transcript. Furthermore, they have not provided this court with any evidence of indigency. Under these circumstances, appellants' request for emergency relief relating to the trial transcript is denied.³

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 20 2003

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

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

Will. Z. Mart...

, Clerk.

²See *Bliss v. State*, 244 Ga. App. 160, 160-161 (535 SE2d 251) (2000) (because trial court erroneously concluded that it lacked discretion in revoking first offender status following probation violation, court of appeals remanded for exercise of discretion)

³In connection with this request, the appellants assert that they are "unemployed, full-time 11th Grade high school students." We note, however, that in assessing the financial status of a juvenile defendant, a court should consider the income of the juvenile's parents. See *In re R. K. J.*, 179 Ga. App. 112, 113 (2) (345 SE2d 658) (1986).

MOTIONS DOCKET

DATE 6-9-03 MOTION DOCKET # 352

COSTS PAID BY: Jeff Sakas
RECEIPT # 76790

CHARGE 80⁰⁰ 5-6-39 - extension

STYLE Lynn G. Goya

ATTY. FOR APLT Jeff Sakas, atty at law

ATTY. FOR APLE J. Blair Craig

LOWER CT. JUDGE Layng, Mark
LOWER CT. # State Court
COUNTY Gwinnett

OUR JUDGE'S CODE 99 -

BRIEFS FILED NT

JUDGMENT DATE: 6-9-03 JUDGMENT: Grant extension

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

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

ATLANTA, June 9, 2003

The Court of Appeals hereby passes the following order:

MOTIONS DOCKET 352. Goza v. Sobhan

This Court having considered appellant's motion under OCGA § 5-6-39 and Court of Appeals Rule 16a to extend time to file the transcript of the trial and to pay court cost, the same is hereby granted. Appellant shall have 90 days from the date of this order to pay trial costs and to file the transcript of the trial.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 9 2003

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

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

C. Will. L. Martini, JR.
Clerk.

MOTIONS DOCKET

DATE 6-23-03 MOTION DOCKET # ~~352~~ 353

COSTS PAID BY: Teresa Mann
RECEIPT # 76927 6/23/03

CHARGE Contempt

STYLE Benjamin Davis v. Richard Reed

ATTY. FOR APLT Teresa A. Mann
Mann + Moran P.C. cell 404-863-2472
1618 Thompson Ave
East Point, Ga 30314

ATTY. FOR APLE Richard Reed, DA.
201 Rockdale County Courthouse
922 Court Street N.E.
Conyers, GA 30012
Rockdale Co. Jail -
Jeff - 7-929-0067
Wigginton

LOWER CT. JUDGE Sidney Natton
LOWER CT. # Rockdale Superior
COUNTY Rockdale

OUR JUDGE'S CODE 99

BRIEFS FILED NT

JUDGMENT DATE: 6/24/03 JUDGMENT: Granted

M.F.R. FILED 6/26/03 RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, June 24, 2003

The Court of Appeals hereby passes the following order:

Motion Docket No. 353. In re: Benjamin Davis.

On June 23, 2003, Benjamin Davis filed an insufficient Emergency Motion For Supersedeas which failed to state a basis for action by this Court with regard to a criminal contempt order issued by the Superior Court of Rockdale County. An Amended Emergency Motion was filed on June 24, 2003, raising issues appropriate for consideration by this Court under Rule 40 (b).

Movant Davis failed to appear for trial as ordered by the court below. An arrest warrant for contempt was issued and Davis was imprisoned. No hearing was held with regard thereto. "A judgment of a court can not subject one to imprisonment for a future act, or failure to act, without a hearing." *Davis v. Davis*, 138 Ga. 8, 10 (1) (74 SE 830) (1912); *Carey Canada v. Hinely*, 181 Ga. App. 364, 369-370 (4) (352 SE2d 398) (1986). Davis' motion for supersedeas is hereby GRANTED and it is ordered that he be released instanter, pending a hearing on the issue of contempt.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 24 2003

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

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

C. Will. L. Maitland, Clerk.

MOTIONS DOCKET

DATE 7/2/03 MOTION DOCKET # 354

COSTS PAID BY: ~~none~~ Shaffer, Raymond & Dalton
RECEIPT # 7018

CHARGE Writ of Supersedeas

STYLE Tambra D. Mitchell et al v. Kay Fish

ATTY. FOR APLT Kevin P. Bradley

ATTY. FOR APLE Brenda H. Trammell

LOWER CT. JUDGE Judge William A. Prior, Jr.
LOWER CT. # Superior Court
COUNTY Jasper County

OUR JUDGE'S CODE ~~WJW~~

BRIEFS FILED _____

JUDGMENT DATE: 7/3/2003 ~~7/2/2003~~ JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

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

ATLANTA, JULY 03, 2003

The Court of Appeals hereby passes the following order:

MOTION DOCKET NO. 354. MITCHELL et al. v. FISH.

Upon consideration, the Motion for Emergency Writ of Supersedeas filed by Tandra D. Mitchell and David P. Mitchell pursuant to Rule 40 (b) of this Court is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL - 3 2003

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

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

Clerk.

Will. L. Mait; [Signature]

MOTIONS DOCKET

DATE 7/24/03 MOTION DOCKET # 255

COSTS PAID BY: Chris McFadden
RECEIPT # 7214

CHARGE Motion to Stay Appeal

STYLE Raleigh A. Lee et al v. East Court Sq. II LLC

ATTY. FOR APLT Chris McFadden

ATTY. FOR APLE N. Jackson Cotney, Jr.
Wiles & Wiles 800 Kennesaw Ave. Suite 400
Marietta, GA 30060-7946

LOWER CT. JUDGE Glenn Dalbaugh
LOWER CT. # 189538
COUNTY DeKalb State Court

OUR JUDGE'S CODE 19X

BRIEFS FILED _____

JUDGMENT DATE: _____ JUDGMENT: _____

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

MOTIONS DOCKET

DATE 8/4/03 MOTION DOCKET # 356

COSTS PAID BY: Kati Woods
RECEIPT # 7305

CHARGE Zoning

STYLE John Cornetta et al v. Fulton County

ATTY. FOR APLT Alan I Begner / Eric L Jensen
Begner Begner Kati Wood
1280 W. Peachtree St. Suite 230
Atlanta, Ga 30306

ATTY. FOR APLE Steven Rosenberg
141 Pryor Street
Atlanta, Ga 30307

LOWER CT. JUDGE Elizabeth Long
LOWER CT. # Superior Court
COUNTY Fulton Co,

OUR JUDGE'S CODE 71

BRIEFS FILED _____

JUDGMENT DATE: 8/5/2003 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

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

ATLANTA, AUG - 5 2003

The Court of Appeals hereby passes the following order:

Motion Docket No. 356. CORNETTA et al. v. FULTON COUNTY, GEORGIA.

Appellants' Motion for Writ of Supersedeas having come on to be heard before this Court, we hereby order that the motion is DENIED.

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

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

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

Will. L. Martin , Clerk.

MOTIONS DOCKET

DATE 9/12/03 MOTION DOCKET # 357

COSTS PAID BY: Michael Dupont
RECEIPT # 7729

CHARGE Supersedeas

STYLE Daniel Kane v. Gene Brogola

ATTY. FOR APLT Michael Dupont
44 Broad Street
400 Grant Bldg.
Atlanta, Ga 30303

ATTY. FOR APLE Paul Howard, D.A.
136 Pryor Street
3rd Floor
Atlanta, Ga 30303

LOWER CT. JUDGE Gene Brogola
LOWER CT. # Fulton Superior
COUNTY Fulton

OUR JUDGE'S CODE 91

BRIEFS FILED NT

JUDGMENT DATE: 9/12/03 JUDGMENT: Granted supersedeas

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, SEP 12 2003

The Court of Appeals hereby passes the following order:

MD 357. IN RE: DANIEL KANE.

The trial court held Daniel Kane in contempt for acts that occurred in the court's presence. Kane timely moved for supersedeas and filed a notice of appeal with the clerk of court.

Although the trial court may, in its discretion, refuse to grant supersedeas pending appeal for contempt committed in the court's presence, OCGA § 5-6-13 (b), we nevertheless retain inherent power to grant supersedeas to prevent the appeal from becoming moot. *Garland v. Tanksley*, 99 Ga. App. 201 (107 SE2d 866) (1959). So that we may reach the merits of this matter, Kane's petition for supersedeas pending appeal of his criminal contempt is hereby GRANTED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 12 2003*

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

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

C. Will. L. Maitland

, Clerk.

MOTIONS DOCKET

DATE 10-6-03 MOTION DOCKET # 358

COSTS PAID BY: 9999
RECEIPT # _____

CHARGE Motion to Dismiss Indictment / Stay Trial pending appeal

STYLE Shirley P. Hester v. The State

ATTY. FOR APLT John W. Kraus
508 Midtown Place N.E.
Atlanta, GA 30308
4-776-7699

ATTY. FOR APLE Dist. Atty. Paul Howard
136 Pryor St. S.W. Atlanta, GA

LOWER CT. JUDGE Marvin S. Arrington
LOWER CT. # _____
COUNTY Fulton

OUR JUDGE'S CODE 70

BRIEFS FILED NT

JUDGMENT DATE: 10-7-03 JUDGMENT: GRANTED

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED 10-17-03

Court of Appeals of the State of Georgia

ATLANTA, October 7, 2003

The Court of Appeals hereby passes the following order:

MOTION DOCKET 358. HESTER v. THE STATE.

Shirley Hester has filed an emergency motion with this Court seeking to stay the trial and a motions hearing in her case during the pendency of her direct appeal from the trial court's denial of her motion to dismiss the indictment for violation of her constitutional right to speedy trial.

At a hearing held on September 9, 2003, the trial court denied Hester's motion to dismiss the indictment. On September 11, Hester filed a notice of appeal from that ruling. On September 15, the trial court issued a written order denying Hester's motion to dismiss the indictment. On September 19, the trial court issued an order "denying pretrial appeal & specially setting trial." In that order, the trial court found that Hester's attempt to appeal the denial of her motion to dismiss the indictment was frivolous, dilatory and made solely for the purpose of delay. The court also set the trial and pretrial motions hearing for October 27, 2003. In a later order, the court reset the motions hearing for October 10, 2003, during a scheduled leave of absence for Hester's counsel. On October 6, Hester filed a notice of appeal from all of the orders mentioned above.

In *Callaway v. State*, 275 Ga. 332 (567 SE2d 13) (2002), the Georgia Supreme Court held that a defendant may directly appeal from the pre-trial denial of either a constitutional or statutory speedy trial claim. In *Rielli v. Oliver*, 170 Ga. App. 699 (318 SE2d 173) (1984), this Court held that when a trial court denies a plea of double

jeopardy and in that same order determines that the plea was frivolous and dilatory, the trial court's jurisdiction over the defendant's case is not divested by the filing of a notice of appeal. The Georgia Supreme Court took *Rielli* one step further in *Strickland v. State*, 258 Ga. 764 (373 SE2d 736) (1988), and held that the trial court could amend its order denying a plea of former jeopardy, nunc pro tunc, to find the plea dilatory and frivolous, even though a notice of appeal had been filed. Even if we assume that *Rielli* and *Strickland* apply to an appeal from the denial of a speedy trial claim, the trial court did not take the steps necessary to retain jurisdiction over Hester's case. The trial court never found the motion to dismiss the indictment dilatory and frivolous, but only the appeal from the denial of that motion. And the court's conclusion that the appeal was dilatory and frivolous was not included in the trial court's order denying the motion to dismiss the indictment, but in a later order setting the case for trial.

Hester's emergency motion is hereby GRANTED. The trial and motions hearing in this case are stayed during Hester's appeal to this Court, which shall proceed for consideration on its merits.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT - 7 2003

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

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

William L. Mat..., Clerk.

MOTIONS DOCKET

DATE 10/20/03 MOTION DOCKET # 359

COSTS PAID BY: Jammi S Long
RECEIPT # 8031

CHARGE Grand jury Presentments

STYLE In re: July-August Grand Jury Presentments
Dekalb County

ATTY. FOR APLT Charles S. Hicks / Wm. J. Lennox, III
Jammi S. Long / Dekalb Co. Law Dept.
1300 Commerce Dr. 5th Flr

ATTY. FOR APLE J Tom Morgan

LOWER CT. JUDGE Jail Lake / Daniel Coursey
LOWER CT. # 044 03CV91604
COUNTY Dekalb Co

OUR JUDGE'S CODE 70

BRIEFS FILED _____

JUDGMENT DATE: 10/22/2003 JUDGMENT: Denied

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

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

OCT 22 2003

ATLANTA,

The Court of Appeals hereby passes the following order:

**MOTION DOCKET 359. IN RE: JULY-AUGUST GRAND JURY
PRESENTMENT FOR THE JULY-AUGUST 2003 TERM.**

The Court, having considered the Emergency Application for Supersedeas filed by DeKalb County, Georgia and Vernon Jones, Chief Executive Officer of DeKalb County, hereby denies the application.

*Court of Appeals of the State of Georgia,
Clerk's Office, Atlanta* OCT 22 2003

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

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

C. Will. L. Mait; JR Clerk.

MOTIONS DOCKET

DATE 11/13/03 MOTION DOCKET # 360

COSTS PAID BY: Ham + Jenkins
RECEIPT # 78233

CHARGE Supersedeas Bond

STYLE Starr Hudson et al v. Downtown Development

ATTY. FOR APLT Benson Ham Kevin Wangerin
P.O. Box 950 2460 Reverend Dr.
Forsyth Ga 31029 Macon, Ga 31209-80

ATTY. FOR APLE Robert C. Melton OT
P.O. Box 657 Shuchert Baker
Forsyth, Ga 31029 40 Capitol Sq
Atlanta, Ga 30322

LOWER CT. JUDGE Thomas Wilson
LOWER CT. # Superior
COUNTY Montcal County

OUR JUDGE'S CODE 92
Richard Melan
P.O. Box 11
Forsyth, Ga
31029

BRIEFS FILED NT - 11-13; 11-17
EE 11-17

order 11-14-03

JUDGMENT DATE: 11/18/03 JUDGMENT: Grant Stay

M.F.R. FILED _____ RESPONSES _____

N.O.I. FILED _____

Court of Appeals of the State of Georgia

ATLANTA, **NOV 14 2003**

The Court of Appeals hereby passes the following order:

MD360. STATE v. DOWNTOWN DEVELOPMENT AUTHORITY OF FORSYTH AND THE CITY OF FORSYTH.

Intervenors have filed an emergency motion asking this Court to stay the superior court's order requiring them to post a bond pursuant to OCGA § 50-15-2. The record furnished to this Court with the motion does not reveal whether the bond was required after a "show cause" hearing. Nor does the record reveal whether an order was obtained, and served, as required by the second and third sentences of that code section. According to the statute, the intervenors will be dismissed by operation of law if the bond is not posted within ten (10) days after entry of the order requiring the bond. The order was entered on November 6, 2003, and filed with the clerk of court on November 7, 2003. It appearing that the deadline may occur before this Court has adequate opportunity to consider the emergency motion, it is hereby

ORDERED that the portion of the superior court's order of November 6, 2003, which required the posting of a bond is stayed pending further order of this Court. It is further ordered that:

1. Any party who desires to assist the Court in its consideration of this matter may, but is not required to, file a short brief, not to exceed ten pages, by facsimile, e-mail, or hand-delivery to the Clerk of this Court not later than 11:00 a.m., Monday, November 17, 2003. Service upon other parties shall be by facsimile, e-mail, or hand-delivery, as the party prefers, provided that the service copies of the brief are actually received by the other parties not later than 11:00 a.m. on Monday. Service by mail is

not permitted. The Clerk's e-mail address is martinw@appeals.courts.state.ga.us., and the FAX number is (404) 651-6187.

2. All parties are represented by counsel. They are expected to cooperate to insure the timely receipt of briefs. Specifically, any counsel who does submit a brief shall telephone other counsel in the case by 12:00 noon on Monday to insure that his or her brief was received.

3. Parties are not required to submit any briefs. However, any party which desires to submit an optional reply brief may do so provided it is filed and served by e-mail, facsimile, or hand-delivery so as to be actually received not later than 4:30 PM on Monday, November 17, 2003. The Court will issue an order by the close of business on Tuesday, November 18, 2003.

4. Page 4 of the superior court's order of November 3, 2003, was not submitted with the motion. Counsel for intervenors will furnish it to the Court by e-mail or facsimile not later than 11:00 a.m., Monday, November 17, 2003.

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

NOV 14 2003

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

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

William S. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, November 18, 2003

The Court of Appeals hereby passes the following order:

**MD360. STATE OF GEORGIA v. DOWNTOWN DEVELOPMENT
AUTHORITY OF FORSYTH AND THE CITY OF FORSYTH v.
HUDSON, et al.**

The intervenors have filed an emergency motion asking this court to stay that portion of the judgment which required them to post a bond as a condition of continued participation in the lawsuit. It appears that the contentions of the intervenors are not frivolous. Therefore it was an abuse of discretion for the trial court to require the bond. It is therefore

ORDERED that the judgment is stayed until final disposition of the intervenors' appeal, in so far as it requires posting of a bond.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 18 2003*

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

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

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