

**COURT OF APPEALS OF GEORGIA
EMERGENCY MOTIONS**

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MOTIONS DOCKET

JUDGE # 94 MOTION DOCKET NUMBER 1113-001

DATE 8-28-2012 REC # 6405 PAID BY: Dow Lohnes, PLLC

CHARGE: _____

STYLE: Radio Perry, Inc. v. Cox Communications, Inc.

ATTY NT: Thomas M. Clyde, Esq.
Dow Lohnes PLLC
Six Concourse Pkwy # Ste 1806
Atlanta 30328

Robert R. Gunn, II, Esq.
Martin Snow, LLP
240 Third Street
P.O. Box 1606
Macon 31202-1606

ATTY EE: Thomas C. James, III, Esq.
James Pope Bates & Spivey
231 Riverside Drive * Ste 100
P.O. Box 4283
Macon 31208-4283

C. Grant Greenwood, Esq.
< Same address

LOWER COURT JUDGE: Judge Edgar Ennis, Jr.

LOWER COURT CASE #: 12 CV 56545

COUNTY: Bibb County Superior Court

JUDGMENT DATE 8-28-2012

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, AUG 29 2012

The Court of Appeals hereby passes the following order:

MD-13-001. RADIO PERRY, INC. v. COX COMMUNICATIONS, INC.

Cox Communications, Inc., has filed an “Emergency Motion to Discontinue Injunction Pending Appeal” pursuant to Court of Appeals Rule 40 (b), which provides this Court with the inherent authority to issue emergency orders “as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot.” Pursuant to Rule 40 (b), however, this Court shall exercise this power “sparingly.” Cox Communications contends that Rule 40 (b) allows this Court to review on an emergency basis whether to dissolve the trial court’s temporary injunction preventing Cox Communication, Inc., from removing Radio Perry, Inc., from the local cable television system.¹ Nevertheless, review of this issue is not necessary to preserve this Court’s jurisdiction over the appeal or to prevent the contested issue from becoming moot.² Accordingly, this motion is hereby **DENIED**.

¹ We note that the trial court’s injunction order requires Radio Perry to file a motion to continue the injunction within 15 days of the date the appeal is docketed in this Court, which will occur on the date when the record is transmitted to this Court from the Clerk of the Superior Court of Bibb County. See Court of Appeals Rule 11 (a).

² We further note that pursuant to OCGA § 9-11-62 (c) the trial court is authorized to modify an earlier order to protect the rights of the parties notwithstanding a pending appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG 29 2012

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

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

Hally K. O. Spencer , Clerk.

MOTIONS DOCKET

JUDGE # 97

MOTION DOCKET NUMBER MD-13-002

DATE 8-29-2012 REC # 9999 PAID BY: Pauper

CHARGE: Motion for Temporary Restraining Order for Dispossesory / Distress

STYLE: James L. Lingo Jr. v. Roger D. Smith

ATTY NT: James L. Lingo, Jr.
P.O. Box 1742
Albany, Georgia 31702

ATTY EE: Edward Collier, Esq.
Post Office Box 577
Dawson, Georgia 39842

Sheriff Kevin Sproul
Post Office Box 1827
Albany, Georgia 31702

LOWER COURT JUDGE: Stephen S. Goss, Judge

LOWER COURT CASE #: 11CV1578

COUNTY: Superior Court of Dougherty County

JUDGMENT DATE 8/30/2012

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, AUG 30 2012

The Court of Appeals hereby passes the following order:

MD-13-002. LINGO v. SMITH.

In this dispossessory case, James L. Lingo, Jr., has filed an “Emergency Motion for a Temporary Restraining Order” in the Supreme Court of Georgia. The motion was transferred to this Court on jurisdictional grounds. Lingo seeks to halt the dispossessory action because of an alleged unlawful ruling from which he has filed a notice of appeal following the remittitur of a prior appeal, Case No. A12A0712, in which this Court affirmed the underlying dispossessory order.

Pursuant to Court of Appeals Rule 40 (b), this Court has authority to issue emergency orders “as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot.” As stated in the rule, this Court shall exercise this power “sparingly.” Lingo’s motion fails to meet these criteria; accordingly, this motion is hereby **DENIED**.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, AUG 30 2012

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the minutes of the Court of Appeals of Georgia.*

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Hally K. O. Spencer, Clerk.

MOTIONS DOCKET

JUDGE # 99 MOTION DOCKET NUMBER MD-13-003

DATE 9/19/12 REC # 6588 PAID BY: McGuire Woods

CHARGE: arbitration

STYLE: S+S Financial Mortgage Corporation v. First Option Mortgage, LLC

ATTY NT:
David K. Forestner
McGuire Woods LLP
Suite 2100, Promenade II
1230 Peachtree St. NE
Atlanta GA 30309

ATTY EE:
Curtis J. Romig
Theresa B. Hubbard
Bryan Cave, LLP
One Atlantic Center, 14th Floor
1201 West Peachtree Street
Atlanta GA 30309

LOWER COURT JUDGE: Debra K. Turner

LOWER COURT CASE #: 12A 06670-2

COUNTY: Gwinnett Superior

JUDGMENT DATE 9/20/2012 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, SEP 20 2012

The Court of Appeals hereby passes the following order:

MD-13-003. FIRST OPTION MORTGAGE, LLC v. S & S FINANCIAL MORTGAGE CORPORATION.

Appellee S & S Financial Mortgage Corporation in the above-referenced case filed a "Motion for Emergency Decision" pursuant to Court of Appeals Rule 40 (b), requesting that this Court decide the merits of Appellant First Option Mortgage, LLC's appeal on an extremely expedited basis. However, a motion seeking a resolution on the substantive merits of an appeal prior to the appeal being docketed, the record below being provided, and appellant's brief being filed is not an authorized motion under Court of Appeals Rule 40 (b). Accordingly, appellee's motion is DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, SEP 20 2012*

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*Witness my signature and the seal of said court
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Hally H. O. Spawor , Clerk.

MOTIONS DOCKET

JUDGE # 99 MOTION DOCKET NUMBER MD-13-004

DATE 9/20/2012 REC # 9999 PAID BY: Pauper

CHARGE: Wrongful dispossession

STYLE: Mildred GARRISON - OBI v. US Bank National Association

ATTY MT: Ms. Mildred GARRISON - OBI
PRO SE
1047 Parkgate Place
Stone Mountain 30083

ATTY EF: A. Drew Powers, Esq.
McCalla Bayme, LLC
1544 Old Alabama Road
Roswell 30076

LOWER COURT JUDGE: Gregory A. Adams

LOWER COURT CASE #: 12CV7395-5

COUNTY: DeKalb Superior Court

JUDGMENT DATE 9/21/2012

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, SEP 21 2012

The Court of Appeals hereby passes the following order:

**MD-13-004. U.S. BANK NATIONAL ASSOCIATION et al. v. GARRISON-
OBI.**

Mildred Garrison-Obi has filed an emergency motion pursuant to Court of Appeals Rule 40 (b), requesting that this court “vacate wrongful dispossession, clear clouds in the title, sanction, complaint and other relief” related to the Superior Court of DeKalb County’s dismissal of her appeal to a magistrate court order and judgment entitling U.S. Bank National Association a writ of possession. Garrison-Obi contends that she “was denied the right to submit to the court that in fact she answered the writ of possession . . . in a timely matter [sic]” and that she “was denied due process and the opportunity to present all evidence supporting injustice [sic].” However, Garrison-Obi has neither explained nor shown “why an [emergency] order of this Court is necessary” *See* Court of Appeals Rule 40 (b) (i). And to the extent Garrison-Obi seeks to appeal the superior court’s decision, she must file an application for a discretionary appeal. *See* OCGA § 5-6-35 (a) (1); *Bullock v. Sand*, 260 Ga. App. 874, 875 (581 SE2d 333) (2003) (“Appeals from decisions of the superior courts reviewing decisions of lower courts by certiorari or de novo proceedings shall be by application for discretionary appeal.” (punctuation omitted)). Accordingly, Garrison-Obi’s motion is ***DENIED***.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, SEP 21 2012

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the minutes of the Court of Appeals of Georgia.*

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Hally H. O. Spawort Clerk.

MOTIONS DOCKET

JUDGE # 99

MOTION DOCKET NUMBER MD-13-005

DATE 9-20-2012 REC # 6599 PAID BY: Elmer Weir

CHARGE: For Stay

STYLE: Elmer Weir v. Federal National Mortgage Assn, et al.

ATTY NT:

Mr. Elmer Weir
1156 Frog Leap Trl, NW, Lot 89
Kennesaw, GA 30152

ATTY EE:

Mr. Daniel Barbacelata
McCurdy & Candler, LLC
Six Piedmont Center, Ste 700
Atlanta, GA 30305

LOWER COURT JUDGE: Judge Roland Castellanos

LOWER COURT CASE #: 12-1-3676

COUNTY: Superior Court of Cobb County

JUDGMENT DATE 9/21/2012

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, SEP 21 2012

The Court of Appeals hereby passes the following order:

MD-13-005. ELMER WEIR v. FEDERAL NATIONAL MORTGAGE ASSOCIATION et al.

Elmer Weir, pro se, has filed a document designated "Appeal," and "Emergency Order for Stay" with this Court. Weir references a civil action filed in Cobb County Superior Court, and he asks that this Court "grant a temporary restraining order concerning Eviction/Writ of Possession," and for other relief. Among the documents Weir has submitted to this Court is a copy of a Writ of Possession for property situated at 1156 Frog Leap Trail NW, Cobb County, Georgia.

We construe Weir's filing as an emergency motion under Court of Appeals Rule 40 (b). A Rule 40 (b) motion shall, among other things, "[c]ontain an explanation why an order of this Court is necessary and why the action requested is time sensitive." *See* Court of Appeals Rule 40 (b) (i). Weir has not explained or shown why an emergency order of this Court is necessary. Our Rule 40 (b) also provides that "[g]enerally, no order shall be made or direction given in an appeal until it has been docketed in this Court." Weir does not show that he has an appeal or an application for appeal docketed in this Court. Accordingly, Weir's motion is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, SEP 21 2012

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the minutes of the Court of Appeals of Georgia.*

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Hally H. O. Spawr Clerk.

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER MD-13-006

DATE 10-18-2012 REC # 106758 PAID BY: ~~FUND~~ #27652
Supreme Court Check

CHARGE: Supercedeas

STYLE: City of Mansfield v. Georgia Transmission Corp.

ATTY NT:
A.J. Welch, Esq.
Smith Welch Webb & White, LLC
P.O. Box 10
2200 Keys Ferry Court
McDonough 30253

William A. White, Esq.
"Same address"

ATTY BE:
Donald C. Evans, Jr., Esq.
Evans Law Firm
117 North Erwin Street
P.O. Box 3022
Cartersville 30120

LOWER COURT JUDGE: Chief Judge John M. Stt

LOWER COURT CASE #: 2012-CV. 1238-2

COUNTY: Newton County

JUDGMENT DATE 10/19/2012

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, OCT 19 2012

The Court of Appeals hereby passes the following order:

MD-13-006. CITY OF MANSFIELD v. GEORGIA TRANSMISSION CORPORATION.

The City of Mansfield has filed an emergency motion with this court seeking supersedeas pending appeal of an October 1, 2012, order of the Superior Court of Newton County.

In that order, the superior court rejected the city's legal challenges to Georgia Transmission Corp.'s right to condemn certain property. The superior court indicated that by a companion order, it would appoint two assessors, who will appoint a third assessor, to conduct a hearing on the value of the easement Georgia Transmission seeks to condemn and to return that value to the superior court. The superior court held that upon Georgia Transmission's payment into the court registry of the value of the easement as found by the panel of assessors, absolute title in the easement and property will vest in Georgia Transmission.

The city filed a notice of appeal of the October 1, 2012, order. It also filed the instant motion, stating that the superior court has set the hearing before the panel of assessors for October 22, 2012. The city seeks an order for supersedeas preventing further proceedings in the condemnation action pending its appeal.

After consideration of the city's motion for supersedeas and Georgia Transmission's response, the motion is hereby **GRANTED**. The superior court's order of October 1, 2012, is stayed and superseded, and further proceedings in the condemnation action are stayed pending the completion of the appeal or further order of this court.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, OCT 19 2012

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the minutes of the Court of Appeals of Georgia.*

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

Hally K. O. Spencer, Clerk.

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER MD-13-007

DATE 10-25-2012 REC # 106797 PAID BY: Alicia Burnett

CHARGE: Stay

STYLE: Luis Ramirez, et. al. v. U.S. Bank National Assn. et. al.

ATTY NT:
Ms. Alicia Burnett
Mr. Luis Ramirez, et al.
670 Forest Hills Drive, N.E.
Atlanta 30342

ATTY EE:
Ms. Anne Drew Powers
McCalla Raymer, LLC
1544 Old Alabama Road
Roswell, Georgia 30076

LOWER COURT JUDGE: Kelly A. Lee, Judge, Atlanta Judicial Circuit

LOWER COURT CASE #: 12CV213543

COUNTY: Fulton Co Superior Ct

JUDGMENT DATE 10/25/2012 JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, OCT 25 2012

The Court of Appeals hereby passes the following order:

MD-13-007. BURNETT v. U. S. BANK NATIONAL ASSOCIATION.

Alicia Burnett has filed an emergency motion seeking a stay of execution of the writ of possession issued by the Superior Court of Fulton County on May 2, 2012 regarding property located at 670 Forest Hills Drive NE, Atlanta, Georgia 30342.

The motion is hereby GRANTED and execution of the writ of possession is hereby stayed pending Burnett's appeal from the superior court's October 15, 2012 order in Civil Action No. 12CV213543 dismissing the appeal from the May 2, 2012 order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, OCT 25 2012

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

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

Hally H. O. Spencer , Clerk.

MOTIONS DOCKET

JUDGE # 90 MOTION DOCKET NUMBER MD-13-008

DATE 11/2/2012 REC # _____ PAID BY: Pauper

CHARGE: Supersedeas

STYLE: Milas Nelson v. The State

ATTY: Milas Nelson GNC 27790
Avery State Prison
Post Office Box 648
Pelham, Georgia 31779

ATTY EE: The Honorable Samuel O'Leary
Attorney General
40 Capitol Square
Atlanta, Georgia 30334

LOWER COURT JUDGE: Judge Kelly Amanda Lee, Fulton Co Sup Ct

LOWER COURT CASE #: 045C17612

COUNTY: Fulton County

JUDGMENT DATE 11-2-2012 JUDGMENT: Denied

MFR FILED 11-8-2012

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 2 2012

The Court of Appeals hereby passes the following order:

MD13-008. NELSON v. THE STATE.

On November 1, 2012, Appellant Milas Nelson filed a motion under Court of Appeals Rule 40 (b) "for a supersedeas for appeal" in connection with a February 6, 2012 order denying his motion to withdraw and vacate his 2005 guilty plea, as well his motion to modify his sentence. Appellant's motion fails to satisfy the criteria set forth in Court of Appeals Rule 40 (b). The motion is therefore DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, NOV 2 2012

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Hally H. O. Sparrow, Clerk.

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

ATLANTA, NOV 19 2012

The Court of Appeals hereby passes the following order:

MD-13-008. NELSON v. THE STATE.

Milas Nelson's motion for reconsideration of this court's denial of his motion "for a supersedeas for appeal" is also hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, NOV 19 2012

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

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

Hally K. O. Spawort, Clerk.

MOTIONS DOCKET

JUDGE # 9290 MOTION DOCKET NUMBER MS 13 009

DATE 8 Nov 2012 REC # 106890 PAID BY: LAB MS

CHARGE: Supersedes

STYLE: Lab MS, Inc v. Admiral Insurance Company, et al.

ATTYNT:
Stephen F. Fusco, Esq.
Lab MS
2030 POWERS FERRY ROAD
Bldg 500 Ste 520
Atl 30339

ATTYEE:
Phillip W. Sourin, Esq.
Freseman Mathis Gary, LLP
100 Galleria Parkway Ste 1600
Atl 30339

Bill Suttan, Esq
McLain Merritt, LLP
3445 Peachtree Road, NE Ste 500
Atl 30326

LOWER COURT JUDGE: Judge Alford J. Dempsey, Jr

LOWER COURT CASE #: 2011CV197374

COUNTY: Fulton

JUDGMENT DATE 11/9/2012

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 9 2012

The Court of Appeals hereby passes the following order:

MD-13-009. LABMD, INC. v. ADMIRAL INSURANCE COMPANY et al.

LabMD, Inc. has filed an emergency motion in this court seeking to stay the trial of an underlying civil action between the plaintiff LabMD, Inc. and the defendant Adnan Savera. LabMD, Inc. seeks to stay the trial pending its appeal of the trial court's ruling that Admiral Insurance Co. has a duty to defend Savera in the underlying action. LabMD, Inc.'s motion fails to meet the standard for emergency relief set forth in Court of Appeals Rule 40. The stay requested by LabMD, Inc. is not necessary to preserve jurisdiction of an appeal and does not prevent the contested issues of the underlying case from becoming moot. The motion is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, NOV 9 2012*

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*Witness my signature and the seal of said court
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Hally K. O. Sparrow, Clerk.

MOTIONS DOCKET

JUDGE # 90. Boggs
~~922/200000~~ MOTION DOCKET NUMBER MD 13-18

DATE 11/14/2012 REC # _____ PAID BY: Pauper's Affidavit

CHARGE: Stay

STYLE: CARMAX Auto Finance v. Robert Knupp, et al.

ATTY NT: Robert L. Dylsetz Knupp
2711 Ilex Court, S.W.
MARIETTA 30008-5634

ATTY EE: Mr. Curtis Potts
CARMAX Auto Finance
P.O. Box 440609
KENNESAW 30160

Philip H. Rubin Esq.
5555 Glenridge Connector, Ste 900
Atlanta 30342

LOWER COURT JUDGE: IRMA B. GLOVER, Judge

LOWER COURT CASE #: 12A2297-3

COUNTY: Cobb County

JUDGMENT DATE 11/15/2012 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED ~~11/13/2012~~

Court of Appeals of the State of Georgia

ATLANTA, NOV 15 2012

The Court of Appeals hereby passes the following order:

MD-13-10. CARMAX AUTO FINANCE v. KNUPP et al.

Robert and Dylette Knupp have filed a emergency motion in this court seeking to stay the execution of the writ of possession issued by the trial court for three motor vehicles. The Knupps would only be entitled to retain possession of the motor vehicles pending appeal if they complied with the provisions of OCGA § 44-14-234 (1) by paying into the registry of the court past due amounts admitted to be due or all amounts of unaccelerated payments which become due after the issuance of the summons (or a receipt showing that payment has been made to the creditor). See OCGA § 44-14-235. The Knupps have made no showing that they complied with this requirement. Moreover, their motion does not otherwise comply with Court of Appeals Rule 40 (b) in that the relief they seek is not necessary to preserve jurisdiction of an appeal and does not prevent the contested issues of the underlying case from becoming moot. "Issuance of a writ of possession does not affect the merits of the case but only the right to possession pending a final decision on the merits." (Punctuation omitted.) *Cavender v. First Nat. Bank*, 173 Ga. App. 660 (327 SE2d 789) (1985), citing OCGA § 44-14-234 (4). The emergency motion is therefore hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, NOV 15 2012

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the minutes of the Court of Appeals of Georgia.*

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

Hally K. D. Lanoat , Clerk.

MOTIONS DOCKET

JUDGE # 90. Boggs MOTION DOCKET NUMBER MD 13-011

DATE 11.15.2012 REC # 106930 PAID BY: Carhannah Corp
580.00

CHARGE: MOTION TO ISSUE STAY

STYLE: KRISTAN McCullough, et al v. The State and Judge Kathlene Gosselin

ATTY NT: JAMES W. Smith Esq.
260 College Avenue
Athens 30601

ATTY EE: Lee Narragh DA
Northeastern Judicial Circuit
225 Green Street, S.E.
Gainesville GA 30503

Allison Toller, Asst. D.A.
"Same address"

LOWER COURT JUDGE: Kathlene F. Gosselin, Judge

LOWER COURT CASE #: 2012-CR-584 B

COUNTY: Hall

JUDGMENT DATE 11/15/2012

JUDGMENT: Granted

MFR FILED 11/26/2012

11/20/2012 - Seized

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, NOV 20 2012

The Court of Appeals hereby passes the following order:

MD-13-011. McCULLOUGH et al. v. STATE OF GEORGIA.

The State has moved for reconsideration of the order on the Rule 40 (b) motion of appellant Kristan McCullough and her counsel, James Wilson Smith, to stay proceedings below.

The State argues several points: that this court has no jurisdiction because the notice of appeal is not from a “final” or “collateral” order; that it is in a state of uncertainty regarding the status of McCullough’s speedy trial demand; and the merits of the trial court’s ruling on the motion to quash. In effect, the State asks for an advisory opinion on these matters, which we may not provide. See *In re Estate of Davis*, 243 Ga. App. 58, 63 n.9 (2) (532 SE2d 169) (2000) (no advisory opinion where issue not ripe for decision).

But all these issues are properly for resolution in the appeal from the trial court’s ruling on the motion to quash, which was not before this court on the Rule 40 (b) motion. The only matter addressed was the contempt hearing scheduled for November 15, 2012, which was stayed pending disposition of the pending appeal.

The State’s motion for reconsideration is therefore DENIED.



Court of Appeals of the State of Georgia

Clerk’s Office, Atlanta, NOV 20 2012

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the minutes of the Court of Appeals of Georgia.*

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

Hally K. O. Spawort, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, NOV 15 2012

The Court of Appeals hereby passes the following order:

MD-13-011. McCULLOUGH et al. v. STATE OF GEORGIA.

Appellant Kristan McCullough and her counsel, James Wilson Smith, have moved pursuant to Court of Appeals Rule 40 (b) to stay proceedings below, pending resolution of the appeal of an order on a motion to quash a subpoena for the production of evidence. The subpoena, dated November 1, 2012, sought counsel's records pertaining to his representation of McCullough in a criminal matter. On November 2, 2012, counsel filed a motion to quash the subpoena. In an order signed November 5, 2012, and filed on November 7, 2012, the trial court denied the motion only to the extent that McCullough was ordered to "provide the following information: whether this particular client, during the time period in question paid money to the Defendant's attorney." The order does not appear to compel the production of any documents.

However, on November 12, 2012, the State filed a motion to compel, and on the same day the court signed a rule nisi, prepared by the State, which was filed on November 14, 2012. The rule nisi set a hearing for 1:00 p.m. on November 15, 2012, reciting that "the Court having ordered James Smith to produce certain documents in compliance with a subpoena . . . and the witness having failed to produce said documents, it is hereby ORDERED that the witness, James Smith, produce the documents ordered to be provided or show cause why he should not be held in contempt." On November 14, 2012, McCullough filed a notice of appeal from the trial court's order on the motion to quash, and on November 15, 2012, McCullough and Smith filed this emergency motion.

Counsel argues that he risks a choice between being held in contempt or complying with an order that he contends is unlawful, vague and unenforceable, inconsistent with the motion to compel, and from which his client has appealed.

After reviewing the pleadings and the documents provided by the movants, the motion is GRANTED and the hearing scheduled for November 15, 2012 is STAYED pending disposition of the pending appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 15 2012

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

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

Willi Z. Mat:R....., Clerk.

MOTIONS DOCKET

JUDGE # 98 MOTION DOCKET NUMBER MD-13-012

DATE 12/3/2012 REC # 9999 PAID BY: Payee

CHARGE: Request for Extension to file Application

STYLE: Jillian Sheridan v. The Georgia Department of Banking
& Finance, et. al.

ATTY NT:
Ms. Jillian Sheridan
3873 Summerleigh Ct.
Loganville, GA 30052

ATTY EE:
Daniel Strowe
Asst Attorney General
40 Capitol Sq. S.W.
Atlanta, GA 30334

LOWER COURT JUDGE: Judge Fred A. Bishop

LOWER COURT CASE #: 12A06185-1

COUNTY: Gwinnett Superior Court

JUDGMENT DATE 12/5/2012 JUDGMENT: Denied

MFR FILED 12/17/2012 Denied 12/18/2012

RESPONSES _____

NOI FILED 12/26/2012 Voluntary dismissal - w/drawal
filed 1/7/2013

Court of Appeals of the State of Georgia

ATLANTA, DEC 5 2012

The Court of Appeals hereby passes the following order:

**MD-13-12. JILLIAN SHERIDAN v. DEPARTMENT OF BANKING AND
FINANCE, STATE OF GEORGIA et al.**

Upon consideration of Appellant's Motion for Extension of Time to File Discretionary Application, the same is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, DEC 5 2012

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

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

Hally H. O. Spencer, Clerk.

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

ATLANTA, DEC 18 2012

The Court of Appeals hereby passes the following order:

**MD-13-12. JILLIAN SHERIDAN v. DEPARTMENT OF BANKING AND
FINANCE, STATE OF GEORGIA et al.**

Upon consideration of Appellant's Motion for Reconsideration in the above appeal, the same is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 18 2012*

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

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

Hally K. O. Spencer, Clerk.

MOTIONS DOCKET

JUDGE # 98 MOTION DOCKET NUMBER MD-13-013

DATE 12/18/2012 REC # 107170 PAID BY: Howard law firm

CHARGE: Extension of Time to file Notice of Appeal

STYLE: Cartledge v. Montano et. al.

ATTY NT:

Sharon Effatt Howard
The Howard Law Firm
Suite 200, Kyleif Center
1479 Brockett Rd
Tucker, GA 30084

ATTY EE:

Susan Carter Mulherin
Fitz Fulcher Hagler, LLP
One 10th St., 7th Flr.
P.O. Box 1477
Augusta, GA 30903-1477

LOWER COURT JUDGE: Judge James Blanchard

LOWER COURT CASE #: 2007 RCCV300

COUNTY: Superior Court Richmond County

JUDGMENT DATE 12/18/2012 JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, DEC 18 2012

The Court of Appeals hereby passes the following order:

MD-13-13. CARTLEDGE v. MONTANO et al.

Upon consideration of appellant's emergency motion for an extension of time to file a notice of appeal in the superior court, it is ordered that an extension be granted until 10 days from the date of this order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, DEC 18 2012

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

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

Hally K. O. Spawor , Clerk.

MOTIONS DOCKET

JUDGE # 98

MOTION DOCKET NUMBER MD-13-014

DATE 12-21-2012

REC # 107195

PAID BY: Altman & Schneider, LLC

CHARGE: Motion for Supersedeas

STYLE: Michelle Weeks v. Clark Weeks

ATTY NT:

~~AT~~ Jessie Altman
170 Mitchell St., S.W.
~~AT~~ Atlanta, GA 30303

ATTY EE:

~~AT~~ Rebecca Hoelting
McCurdy & Candler, LLC
250 E. Ponce de Leon Ave.
Ste. 400
Decatur, GA 30030

LOWER COURT JUDGE: Judge Hilton Fuller, Senior Judge

LOWER COURT CASE #: 10CV1628-9

COUNTY: DeKalb County Superior Court

JUDGMENT DATE 12/21/2012

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, DEC 21 2012

The Court of Appeals hereby passes the following order:

MD-13-014. MICHELLE WEEKS v. CLARK WEEKS.

Appellant appeals from orders entered on December 4 and 19, 2012, finding her in wilful contempt and modifying visitation, and denying her motion for supersedeas.

Appellant has filed an emergency motion for supersedeas with this Court. Such a motion “*must* [c]ontain an explanation of why the action requested is time sensitive.”¹ Appellant has failed to provide any explanation of why the action requested is time-sensitive.

Under Court of Appeals Rule 40 (b), we may issue emergency orders to “preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot.” Our power to issue emergency orders “shall be exercised sparingly.”² Neither the issues of mootness nor preservation of appellate jurisdiction are implicated here.³

¹ (Emphasis supplied.) Court of Appeals Rule 40 (b) (1).

² Court of Appeals Rule 40 (b).

³ See *Avren v. Garten*, 289 Ga. 186, 192 (7) (2011); *Bailey v. Kunz*, 307 Ga. App. 710, 711, n. 1 (706 SE2d 98) (2011).

We decline to exercise our limited powers under Rule 40 (b) in this case. The emergency motion is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 21 2012

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

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

Hally K. O. Spawton, Clerk.

MOTIONS DOCKET

JUDGE # 98 MOTION DOCKET NUMBER MD-13-015

DATE 12-27-2012 REC # 9999 PAID BY: Pauper

CHARGE: Denial of Appeal Bond & Motion to Remain in local Custody

STYLE: Cara Williams v. The State

ATTY NT: Cara Williams, PRO SE
99046912
Gwinnett County Jail
2900 UNIVERSITY PARKWAY
LAWRENCEVILLE, GEORGIA 30043

ATTY EE: Mr. Daniel J. Porter, District Attorney
Gwinnett Justice Administration Center
75 Langley Drive
LAWRENCEVILLE, GA 30046-6935

LOWER COURT JUDGE: Judge Debra K. Turner, Gwinnett Superior Court

LOWER COURT CASE #: 12-B-1744-2

COUNTY: Gwinnett

JUDGMENT DATE 12/27/2012 JUDGMENT: denied

MFR FILED 1/9/2013 Denied 1/9/2013

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, DEC 27 2012

The Court of Appeals hereby passes the following order:

MD-13-015. WILLIAMS v. THE STATE.

Cara Williams appeals pro se from orders entered on December 4 and 7, 2012, denying her motions for bond pending appeal and to remain in local custody.

Williams has filed a pro se emergency motion under Court of Appeals Rule 40 (b) seeking to stay the effect of the trial court's orders. Pursuant to Rule 40 (b), we may issue such orders as are necessary to preserve the jurisdiction of an appeal or to prevent the contested issue from becoming moot. "This power shall be exercised sparingly." See Ga. Ct. App. R. 40 (b). Williams has not shown that a Rule 40 (b) order is necessary, and accordingly, her emergency motion is DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, DEC 27 2012*

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

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

Hally A. O. Spawson, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN 9 2012

The Court of Appeals hereby passes the following order:

MD-13-015. WILLIAMS v. STATE.

On December 27, 2012, this Court denied Cara Williams's pro se emergency motion seeking a ruling from this Court staying the effect of the trial court's orders denying Williams's motion for bond pending appeal (entered on December 7 and filed on December 10, 2012) and denying Williams's motion to remain in local custody (entered on December 4 and filed on December 5, 2012). We held that "Williams has not shown that a Rule 40 (b) order is necessary, and accordingly, her emergency motion is DENIED." See *Carter v. State*, 267 Ga. App. 520, 526 n.31 (600 SE2d 637) (2004).

On January 7, 2013, Williams filed a Motion for Reconsideration of her prior emergency motion. In the motion for reconsideration, Williams asks that this Court reconsider the emergency motion by treating it as a discretionary appeal from the trial court's orders pursuant to OCGA § 5-6-35. The denial of an appeal bond is directly appealable. *Woods v. State*, 238 Ga. App. 54 (517 SE2d 592) (1999); *Wade v. State*, 218 Ga. App. 377, 378 (461 SE2d 314) (1995). Accordingly, the motion to reconsider the emergency motion as a discretionary appeal is DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JAN 9 2012*

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

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

Hally H. O. Spawor , Clerk.

MOTIONS DOCKET

JUDGE # 95 MOTION DOCKET NUMBER MD-13-016

DATE 1-7-2013 REC # 9999 PAID BY: Payper

CHARGE: Extension of Time to File Application

STYLE: Cara Williams v. The State

ATTY NT:

_____	_____
_____	_____
_____	_____
_____	_____

ATTY EE:

_____	_____
_____	_____
_____	_____
_____	_____

LOWER COURT JUDGE: _____

LOWER COURT CASE #: _____

COUNTY: _____

JUDGMENT DATE 9 JANUARY 2013 JUDGMENT: DENIED

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, JAN 9 2012

The Court of Appeals hereby passes the following order:

MD-13-016. WILLIAMS v. THE STATE.

Williams's pro se Motion For an Extension of Time, filed January 7, 2013, seeking an unspecified extension of time to file an application for a discretionary appeal from orders of the trial court denying her motion for bond pending appeal and her motion to remain in local custody is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JAN 9 2012

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

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

Hally K. O. Spawort, Clerk.

MOTIONS DOCKET

JUDGE # 95 MOTION DOCKET NUMBER MD-13-017

DATE 10 JANUARY 2013 REC # _____ PAID BY: _____

CHARGE: Waiver of Parental Notification Statute

STYLE: In the Interest of L.G.

ATTY NT:

ATTY EE:

LOWER COURT JUDGE: _____

LOWER COURT CASE #: _____

COUNTY: _____

JUDGMENT DATE _____ JUDGMENT: _____

Order Issued 1-10-2013 Sealed

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, JAN 10 2013

The Court of Appeals hereby passes the following order:

MD-13-017. IN THE INTEREST OF L. G., a child.

This Court having received a notice of expedited appeal on January 10, 2013, together with a certified copy of an order denying waiver of notice under the Parental Notification Act, OCGA § 15-11-110 et seq., the juvenile court IS HEREBY DIRECTED that the record and transcript of the hearing be transmitted to and received by this Court within five days from the date of filing the notice of appeal with this Court. It is FURTHER ORDERED that the record of the juvenile court shall be certified by the clerk of the juvenile court and transmitted to this Court under seal. See Rule 45 (d).

We also remind the appellant that an enumeration of errors shall be filed within the time period for the filing of the record. If a brief is desired, it shall also be filed within the time period for the filing of the record. No filing fee is required. See Rule 45 (c).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta,

JAN 10 2013

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

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

Hally K. O. Spawort, Clerk.

MOTIONS DOCKET

JUDGE # 93 MOTION DOCKET NUMBER MD-13-018

DATE 1 Feb 2013 REC # _____ PAID BY: _____

CHARGE: Supersedeas

STYLE: Michelle Weeks v. Clark Weeks

ATTY NT:
James S. Altman, Esq.
170 Mitchell Street, S.W.
Atlanta 30303

ATTY EE:
Rebecca Hostling, Esq.
McCurdy + Candler, LLC
250 E. Ponce de Leon, Avenue, Ste 400
Decatur 30030

LOWER COURT JUDGE: Judge Hilton Fuller

LOWER COURT CASE #: 10 CV 1628-9

COUNTY: DeKalb

JUDGMENT DATE 2/1/2013 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, February 1, 2013

The Court of Appeals hereby passes the following order:

MD-13-18. MICHELLE WEEKS v. CLARK WEEKS.

Before this Court is Appellant's Renewed Emergency Motion for Supersedeas. Appellant's Motion is hereby DENIED. See OCGA §§ 5-6-34 (a) (11), (e).



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 1, 2013*

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

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

Hally F. O. Sparrow , Clerk.

MOTIONS DOCKET

JUDGE # 93

MOTION DOCKET NUMBER MD-13-019

DATE 2/7/13

REC # 107550 PAID BY: DeKalb Co. District Attorney

CHARGE: _____

STYLE: In re: special purpose grand jury

ATTY NT:
Robert James SA
700 DeKalb County Courthouse
Decatur 30030

Leonora Grant, ADA
700 DeKalb County Courthouse
Decatur 30030

ATTY EE:
J. Tom Morgan, Esq
P.O. Box 1324
Decatur 30031

LOWER COURT JUDGE: Mark Anthony Scott

LOWER COURT CASE #: 13CV1024

COUNTY: DeKalb

JUDGMENT DATE 2-8-2013
Motions also denied see orders.

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, FEB - 8 2013

The Court of Appeals hereby passes the following order:

MD-13-19. IN RE SPECIAL PURPOSE GRAND JURY.

W. Burrell Ellis, Jr. has filed an emergency motion to seal all filings that have been made in connection with the State's emergency motion for supersedeas and to stay the trial court's February 7, 2013 order. The emergency motion to seal is hereby DENIED. See Court of Appeals Rule 25 (c) (3). This order does not address or resolve whether the record ultimately transmitted from the Clerk of the Superior Court of DeKalb County in connection with the State's notice of appeal filed on February 8, 2013 should be sealed.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, FEB - 8 2013

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

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

Holly H. O. Sparrow

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, FEB - 8 2013

The Court of Appeals hereby passes the following order:

MD-13-19. IN RE SPECIAL PURPOSE GRAND JURY.

The State's emergency motion for supersedeas and to stay the trial court's February 7, 2013 order fails to satisfy the criteria set forth in Court of Appeals Rule 40 (b) and is therefore DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB - 8 2013

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

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

Holly K. O. Spencer , Clerk.

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

ATLANTA, FEB - 8 2013

The Court of Appeals hereby passes the following order:

MD-13-19. IN RE SPECIAL PURPOSE GRAND JURY.

Before this Court is W. Burrell Ellis, Jr.'s motion to adopt preliminary response and motion to dismiss Rule 40 (b) motion for emergency supersedeas and stay. The motion is hereby DENIED AS MOOT.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB - 8 2013*

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

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

Hally H. O. Spencer , Clerk.

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

ATLANTA, FEB - 8 2013

The Court of Appeals hereby passes the following order:

MD-13-19. IN RE SPECIAL PURPOSE GRAND JURY.

Before this Court is Kevin Ross's motion to dismiss the State's Rule 40 (b) motion for emergency supersedeas and stay. The motion is hereby DENIED AS MOOT.



Court of Appeals of the State of Georgia FEB - 8 2013
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.*

Hally K. O. Spencer , Clerk.

MOTIONS DOCKET

JUDGE # 93 MOTION DOCKET NUMBER MD-13-20

DATE 2/12/2013 REC # 9999 PAID BY: _____

CHARGE: Parental Notification Act

STYLE: In the Interest of C. J.

ATTY NT:

Darice M. Good
Guardian Ad Litem
PO Box 170087
Atlanta, GA 30317

ATTY EE:

LOWER COURT JUDGE: Juvenile Court Judge Desiree Sutton Peagler

LOWER COURT CASE #: 13J00861

COUNTY: DeKalb County Juvenile Court

JUDGMENT DATE Order Issued 1/12/2013 JUDGMENT: _____
& Sealed

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, FEB 12 2013

The Court of Appeals hereby passes the following order:

MD-13-20. IN THE INTEREST OF C. J., AN UNEMANCIPATED MINOR

This Court having received a noticed of expedited appeal on February 12, 2013, together with a certified copy of an order denying waiver of notice under the Parental Notification Act, OCGA § 15-11-110 et seq., the juvenile court is HEREBY DIRECTED that the record and transcript of the hearing be transmitted to and received by this Court within five days of the filing of the notice of appeal with this Court. It is FURTHERED ORDERED that the record of the juvenile court shall be certified by the clerk of the juvenile court and transmitted to this Court under seal. See Rule 45 (d).

We also remind the appellant that an enumeration of errors shall be filed within the time period for the filing of the record. If a brief is desired, it shall also be filed within the time period for the filing of the record. No filing fee is required. See Rule 45 (c).



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 12 2013*

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

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

Hally K. O. Spawoat Clerk.

MOTIONS DOCKET

JUDGE # 93 MOTION DOCKET NUMBER 118-13-21

DATE 19 February 2013 REC # 9999 PAID BY: _____

CHARGE: Injunction Relief

STYLE: Andrew Cook, et al v. BRIAN OWENS, et al.

ATTY NT:
Mary Elizabeth Wells
Law Office of M. E. Wells
376 Millidge Avenue, S.E.
Atlanta 30312

Brian Kammer
Georgia Resource Center
303 Elizabeth Street, N.E.
Atlanta 30307

ATTY EE:
Samuel S. Owens, Attorney General
Beth A. Burton, Deputy Attorney General
Joseph Drolet, Senior Assistant Attorney General
Sabrina N. Graham, Senior Assistant Attorney General
Dana E. Weinberger, Assistant Attorney General

40 Capitol Square, S.W.
Atlanta, Georgia 30334

LOWER COURT JUDGE: Doris L. Downs, Judge, Fulton County Superior Court

LOWER COURT CASE#: 2013 CV 227382

COUNTY: Fulton

JUDGMENT DATE 2/19/2013

JUDGMENT: Granted

MFR FILED 19 February 2013

MFR Denied 2/19/2013

RESPONSES _____

NOI FILED _____

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

ATLANTA, FEB 19 2013

The Court of Appeals hereby passes the following order:

MD-13-21. COOK et al. v. OWENS et al.

This matter having been transferred to this Court by the Supreme Court of Georgia and having been read and considered as an emergency motion and finding that because the matter before us may otherwise become moot, it is hereby ordered that the motion is GRANTED.

It is hereby further ordered that the matter SHALL BE STAYED until such further time as the case can be docketed as a direct appeal with a proper record for this Court to consider.



Court of Appeals of the State of Georgia FEB 19 2013
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.*

Hally K. O. Spawor , Clerk.

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

ATLANTA, FEB 19 2013

The Court of Appeals hereby passes the following order:

MD-13-21. COOK et al. v. OWENS et al.

The State having moved this court for reconsideration of its order granting the Appellant's motion for stay, the motion is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 19 2013

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

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

Hally H. O. Spawort, Clerk.

MOTIONS DOCKET

JUDGE # 93 MOTION DOCKET NUMBER MS 13-22

DATE 20 February 2013 REC # 9999 PAID BY: _____

CHARGE: Stay of Execution

STYLE: Andrew Cook, et al v. Brian Owens, et al.

ATTY NT:
Ms. Mary Elizabeth Wells
Law Office of M.E. Wells
376 Milledge Avenue, S.E.
Atlanta 30312

Mr. Brian Kammer
Georgia Resource Center
303 Elizabeth Street, N.E.
Atlanta 30307

ATTY EE:
Ms. Dana Weinberger
Attorney General's Office
40 Capitol Square, SW
Atlanta 30334

LOWER COURT JUDGE: _____

LOWER COURT CASE #: _____

COUNTY: _____

JUDGMENT DATE 2/20/2013

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

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

ATLANTA, FEB 20 2013

The Court of Appeals hereby passes the following order:

MD-13-22. COOK et al. v. OWENS et al.

This matter having been transferred to this Court by the Supreme Court of Georgia and having been read and considered as an emergency motion and finding that because the matter before us may otherwise become moot, it is hereby ordered that the motion is GRANTED.

It is hereby further ordered that the matter SHALL BE STAYED until such further time as the case can be docketed and decided as a direct appeal with a proper record for this Court to consider.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 20 2013*

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

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

Haley K. O. Spawson, Clerk.

MOTIONS DOCKET

JUDGE # 93

MOTION DOCKET NUMBER MA 13-23

DATE 21 February 2013 REC # 9999 PAID BY: _____

CHARGE: Extension of Time to File a Discretionary Application

STYLE: Shelby Roney v. The State

ATTY NT:

Shelby Roney
GAC 1246783
Patten Probation Retention Center
P.O. Box 278
Lakeland, GA 31635

ATTY EE:

T. Craig Earnest, N.A.
Pataula Judicial Circuit
93 Front Street
P.O. Drawer 30
Cuthbert, GA 39840

LOWER COURT JUDGE: Ronnie Joe Lane

LOWER COURT CASE #: 13-0005

COUNTY: SEMINOLE

JUDGMENT DATE 25 February 2013 JUDGMENT: ~~Application~~ dismissed

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, FEB 25 2013

The Court of Appeals hereby passes the following order:

MD-13-23. RONEY v. THE STATE.

On January 18, 2013, the Superior Court of Seminole County revoked the probation of Shelby Roney. Subsequently, Roney's counsel filed an application for discretionary review from the superior court's revocation order, and that application is currently pending before this Court. See Court of Appeals Application No. A13D0249.

Roney has now filed a pro se motion for an extension of time to file a discretionary application pursuant to Court of Appeals Rule 31 (g). However, a criminal defendant does not have the right to represent himself while also being represented by an attorney. See *Pless v. State*, 255 Ga. App. 95 (564 SE2d 508) (2002). Because Roney is currently represented by counsel who already filed an application on his behalf, his pro se motion for an extension of time is "of no legal effect whatsoever." (Footnote and punctuation omitted.) *Id.* Accordingly, Roney's pro se motion for an extension of time to file a discretionary application is hereby DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 25 2013

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

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

Hally H. O. Spawna, Clerk.

MOTIONS DOCKET

JUDGE # ~~107735~~

MOTION DOCKET NUMBER MS 13-24

DATE 26 February 2013

REC # 107735

PAID BY: Pamela Stephenson

CHARGE: Motion to Extend Time to File Discretionary Appeal

STYLE: Auto Farm, Inc v. Alvin Dix

ATTY IN T: Pamela S. Stephenson
Stephenson Reynolds Law
4153-C Flat Shoals Parkway
Suite 324
Decatur, Georgia 30034

ATTY EE: Katherine V. Hung
Morgan & Morgan
191 Peachtree Street, NE
Suite 4200
Atlanta, Georgia 30303

LOWER COURT JUDGE: _____

LOWER COURT CASE #: _____

COUNTY: _____

JUDGMENT DATE 27 February 2013

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

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

ATLANTA, FEB 27 2013

The Court of Appeals hereby passes the following order:

MD-13-24. AUTOFARM, INC. v. ALVIN DIX.

Counsel for the appellant having moved the court to extend the time to file a discretionary appeal from an order of the Superior Court of Fulton County until March 4, 2013; counsel being a member of the House of Representatives within the Georgia General Assembly, pursuant to OCGA § 9-10-150, the motion is hereby GRANTED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, FEB 27 2013*

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

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

Holly H. O. Spawr , Clerk.

MOTIONS DOCKET

JUDGE # 71 MOTION DOCKET NUMBER MD-13-25

DATE 6 March 2013 REC # _____ PAID BY: _____

CHARGE: Supersedeas

STYLE: Chrisley, et al v. Braddock, et al

ATTY N:
Mark V. Spiv
Stephen M. Friedberg
The Adrienne Howell Bldg
3975 Roswell Road, N.E.
Atl 30342

ATTY EF:
Kimberly Childs, Esq.
2727 Paces Ferry Rd. Ste 1225
Atl 30339

Todd N. Stanton, Esq.
1579 Monroe Drive. Ste F 206
Atl 30324

LOWER COURT JUDGE: Alfred J. Dempsey, Jr., Judge

LOWER COURT CASE #: 2012-CV-219963

COUNTY: Fulton

JUDGMENT DATE 3-6-2013

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, MAR 06 2013

The Court of Appeals hereby passes the following order:

MD-13-25. CHRISLEY et al. v. BRADDOCK et al.

Before this Court is Appellant Julie Chrisley's Emergency Motion for Supersedeas. The motion is hereby GRANTED for the reasons discussed below.

The record reflects that Appellant filed a single notice of appeal from (1) the trial court's February 21, 2013 order finding Appellant in contempt for failing to produce certain financial records (the "Contempt Order"), and from (2) the trial court's February 21, 2013 order granting Appellant's demand for a jury trial on the issue of whether she should be held in contempt for failure to return certain funds, and requiring Appellant to post bond to ensure her appearance at the jury trial or, in the event she failed to post bond, be committed to the jail for safekeeping until trial pursuant to OCGA § 15-1-4 (b) (2) (the "Jury Trial Order").¹ However, after Appellant filed her notice of appeal, the trial court entered an arrest order on March 5, 2013, finding that Appellant had failed to timely post bond under the Jury Trial Order and directing the sheriff to immediately arrest Appellant and commit her to the Fulton County jail for safekeeping until trial (the "Arrest Order").

We have proper jurisdiction over this appeal because the Contempt Order is directly appealable under OCGA § 5-6-34 (a) (2). Moreover, Appellant's appeal from the Contempt Order also confers upon this Court jurisdiction over her appeal from the

¹ A separate appeal brought by Appellant has been docketed and is currently pending before this Court which challenges the trial court's October 3, 2012 order granting emergency injunctive relief to Appellee and the trial court's October 4, 2012 order amending the prior order granting emergency injunctive relief. See *Chrisley et al. v. Braddock et al.*, Case No. A13A0528 (docketed on Nov. 6, 2012).

Jury Trial Order, which otherwise would be interlocutory and not subject to review on direct appeal. See OCGA § 5-6-34 (d); *Hester v. Human*, 211 Ga. App. 351, 352 (1) (439 SE2d 50) (1993) (noting that OCGA § 5-6-34 (d) entitles appellant, upon filing of a proper notice of appeal from an order directly appealable, to enumerate as error any other prior or contemporaneous orders entered in the case). See also *Orkin Exterminating Co. v. McIntosh*, 215 Ga. App. 587, 588 (452 SE2d 159) (1994) (appeal from order finding Appellant in contempt authorized review of other rulings in the case pursuant to OCGA § 5-6-34 (d)).

“It is well established that a trial court, upon the filing of a notice of appeal, loses jurisdiction to modify or enforce a judgment which is the subject of the appeal during the period of supersedeas.” (Punctuation and footnote omitted.) *McLeod v. Clements*, 310 Ga. App. 235, 237 (1) (712 SE2d 627) (2011). See OCGA § 5-6-46 (a); Court of Appeals Rule 40 (a). Thus, Appellant’s notice of appeal from the trial court’s Contempt Order and Jury Trial Order divested the trial court of jurisdiction to modify or enforce either of those two orders. See *id.* Accordingly, the trial court was without jurisdiction to enforce the Jury Trial Order after the filing of the notice of appeal through its entry of the Arrest Order. See *id.* We therefore GRANT Appellant’s Emergency Motion for Supersedeas, and we STAY enforcement of the Arrest Order until such time as the underlying appeal is docketed and can be resolved on the merits. See Court of Appeals Rule 40 (b).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAR 06 2013

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

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

Hally K. O. Sparrow, Clerk.

MOTIONS DOCKET

JUDGE # 71 MOTION DOCKET NUMBER MD-13-26

DATE 3-7-2013 REC# 107798 PAID BY: Steven Scarborough

CHARGE: Motion for Extension of Time

STYLE: Kevin Nichols v. Sex Offender Registration Review Board

ATTY IN T: Stephen B. Scarborough, Esq.
The Candler Building
127 Peachtree Street, Ste. 905
Atlanta 30303

Kevin Lewis Nichols
4050 Copperhead Road, S.E.
Dunwoody 30102

ATTY HE: Ashley L. Culberson, Esq.
40 Capitol Square, S.W.
Atlanta 30334

Sam Alex, Attorney General
40 Capitol Square, S.W.
Atlanta 30334

LOWER COURT JUDGE: _____

LOWER COURT CASE #: _____

COUNTY: _____

JUDGMENT DATE 8 March 2013

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, MAR 08 2013

The Court of Appeals hereby passes the following order:

MD-13-26. NICHOLS v. SEX OFFENDER REGISTRATION BOARD.

Nichols's motion for an extension of time in which to file an application for discretionary appeal is hereby GRANTED until March 29, 2013.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 08 2013

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

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

Hally K. O. Sparrow, Clerk.

MOTIONS DOCKET

JUDGE # 71 MOTION DOCKET NUMBER MD-13-27

DATE 3-15-2013 REC # 9999 PAID BY: Pauper

CHARGE: Motion For Extension to File Application for Discretionary Appeal
STYLE: Garry Wayne Trotter v State of Georgia

ATTY NT:
Garry W. Trotter
GAC 1062994
Telfair State Prison
P.O. Box 549
Helena, GA 31037

ATTY EE:
Tracy Graham Lawson, D.A.
Harold Banks Justice Center
9151 Tara Boulevard Ste 40A01
Jonesboro, GA 30236

LOWER COURT JUDGE: Judge Matthew D. Simmons

LOWER COURT CASE #: 2000-CR-0814-8

COUNTY: Clayton

JUDGMENT DATE 19 March 2013 JUDGMENT: DENIED

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, MAR 19 2013

The Court of Appeals hereby passes the following order:

MD-13-27. TROTTER v. THE STATE.

On January 3, 2013, the trial court denied appellant Gary Wayne Trotter's extraordinary motion for new trial. Trotter's application for discretionary appeal of that order was due no later than February 4, 2013. On March 15, 2013, Trotter filed a pro se emergency motion for an extension of time to file an application for discretionary appeal from the order denying his extraordinary motion for new trial.

Pursuant to Court of Appeals Rule 31, as amended effective August 1, 2012, no extension of time to file a discretionary application shall be granted unless the motion for extension was filed on or before the due date of the discretionary application. Since Trotter's motion for an extension of time to file an application for discretionary appeal was not filed within the period in which the discretionary application was due, his motion is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAR 19 2013*

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

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

Hally K. O. Spawort, Clerk.

MOTIONS DOCKET

JUDGE # 71

MOTION DOCKET NUMBER MD-13-28

DATE 28 March 2013 REC # 9999 PAID BY: Pauper

CHARGE: Stay Foreclosure and Eviction Proceeding

STYLE: Holanda DENISE Davis v. Wells Fargo Bank

ATTY NT: Holanda Davis, Pro SE
1598 Blue Spruce Lane
CONYERS 30012

ATTY EF: Byland W. Howard Esq.
Baker Donelson Beaman Caldwell Brekowitz, PC
3414 Peachtree Road, N.E.
Suite 1600 Monarch Plaza
Atlanta 30326

LOWER COURT JUDGE: David B. Lewin, Chief Judge

LOWER COURT CASE #: 2012-CV-1692-1

COUNTY: Rockdale County Superior Court

JUDGMENT DATE 29 March 2013 JUDGMENT: Denied

MFR FILED 41413 And MFR - 4-18-2013
denied 4-4-13
RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA,

MAR 29 2013

The Court of Appeals hereby passes the following order:

MD-13-28. DAVIS v. WELLS FARGO BANK.

On November 29, 2012, the trial court denied Yolanda Davis's emergency motion to vacate a dispossessory order. No appeal was taken from this order. The trial court subsequently dismissed Davis's wrongful foreclosure claims, and Davis filed a notice of appeal. Davis has now filed a motion to stay the eviction. Under OCGA § 44-7-56, Davis was required to file a notice of appeal from a dispossessory judgment within seven days after such judgment was entered. Since Davis failed to file a notice of appeal within seven days of the dispossessory order, we lack jurisdiction over the dispossessory action. Therefore, Davis's emergency motion is hereby DENIED. The appeal from the trial court's order dismissing Davis's wrongful foreclosure claims will proceed in the normal course in this Court and is separate from the instant emergency motion regarding the dispossessory order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta,

MAR 29 2013

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

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

Hally K. O. Sparrow

, Clerk.

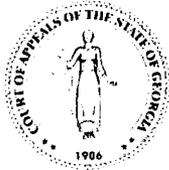
**Court of Appeals
of the State of Georgia**

ATLANTA, APR - 4 2013

The Court of Appeals hereby passes the following order:

MD-13-28. DAVIS v. WELLS FARGO BANK.

Upon consideration of Appellant's motion for reconsideration, the same is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, APR - 4 2013*

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

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

Hally K. O. Spaw, Clerk.

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

ATLANTA, APR 18 2013

The Court of Appeals hereby passes the following order:

MD-13-28. DAVIS v. WELLS FARGO BANK.

Upon consideration of APPELLANT'S SECOND MOTION FOR RECONSIDERATION PURSUANT RULE 37 (d) OF GEORGIA RULES OF APPELLATE COURT (said motion being from this Court's March 29, 2013 order denying the appellant's "Emergency Petition to Stay Foreclosure and Eviction Proceeding Pending Appeal to Court of Appeal Pursuant to OCGA 9.11.62"), the same is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 18 2013

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

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

Hally K. O. Sparrow

....., Clerk.

MOTIONS DOCKET

JUDGE # 10 MOTION DOCKET NUMBER MD-13-29

DATE 5/7/13 REC # 108273 PAID BY: The Gibson Law Firm

CHARGE: motion for extension of time to file NOA.

STYLE: Catherine Gibson McCauley et al. v. miller Built Homes, Inc.

ATTY NT:
James E. Dearing
730 Peachtree Street
Suite 560
Atlanta GA 30308
404-870-0010

ATTY EE:
GREGORY BLAZER, Esq.
Robinson & Blazer, LLP
150 E. Ponce de Leon Avenue
Suite 475
Decatur, GA 30030
404.377.6464 404.377.3658 Fax

LOWER COURT JUDGE: Jackson Harris

LOWER COURT CASE #: 11CV 2466

COUNTY: Cherokee Superior

JUDGMENT DATE 8 May 2013 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, MAY 8 2013

The Court of Appeals hereby passes the following order:

MD-13-29. CATHERINE GIBSON MCCAULEY and THE GIBSON LAW FIRM, LLC v. MILLER BUILT HOMES, INC.

Pursuant to Court of Appeals Rule 40 (b), Catherine Gibson McCauley and The Gibson Law Firm, LLC have filed a "Motion for Extension of Time To File Notice of Appeal." Because they have failed to show that they are entitled to relief pursuant to Rule 40 (b), their motion is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, MAY 8 2013

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

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

Hally F. O. Spencer, Clerk.

MOTIONS DOCKET

JUDGE # 70 MOTION DOCKET NUMBER 13-30

DATE 9 May 2013 REC # _____ PAID BY: _____

CHARGE: MOTION FOR EXTENSION - DISCRETIONARY Appeal

STYLE: Charlotte Nudley v. Mark Butler, Labor Commissioner

ATTY NT: Charlotte Nudley
2236 Wind Rose Court
Lithonia, GA 30058

ATTY EE: Shelly Seiberg, Asst AG
Law Department
40 Capitol Square, S.W.
Atlanta, GA 30334

LOWER COURT JUDGE: Judge Linda Warren Hunter

LOWER COURT CASE #: 12 CV 136 20-8

COUNTY: DeKalb

JUDGMENT DATE 9 May 2013

JUDGMENT: Granted
extended until May 29, 2013

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, MAY 9 2013

The Court of Appeals hereby passes the following order:

**MD-13-30. CHARLOTTE DUDLEY v. MARK BUTLER, COMMISSIONER
OF LABOR FOR STATE OF GEORGIA et al.**

Pursuant to Court of Appeals Rule 40 (b), Charlotte Dudley filed on May 8, 2013 a "Motion for Extension of Time To File Application for Discretionary Appeal." Dudley seeks to challenge a superior court order entered on April 8, 2013.

Said motion is hereby GRANTED, extending the time to file the application for discretionary appeal until May 28, 2013. Dudley is further instructed to include in said application filed with this Court a copy of this order.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, MAY 9 2013*

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

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

Hally H. O. Spencer , Clerk.

MOTIONS DOCKET

JUDGE # 97 MOTION DOCKET NUMBER MS 13-31

DATE 5 JUNE 2013 REC # 108565 PAID BY: Melvin L. Dansby

CHARGE: Protective Order and Stay

STYLE: Melvin L. Dansby, Esq v. Judge Aaron Mason

ATTY AT: Melvin L. Dansby, Esq.
2160 NORSEY AVENUE
East Point, Georgia 30344

ATTY EE: Judge Aaron Mason
Clayton County State Court
9151 Tara Boulevard
Jonesboro, Georgia 30236

LOWER COURT JUDGE: Judge Aaron Mason

LOWER COURT CASE #: 2012 CR 05045

COUNTY: Clayton County State Court

JUDGMENT DATE 6-5-2013 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, JUN 5 2013

The Court of Appeals hereby passes the following order:

MD-13-31. DANSBY v. MASON.

Attorney Melvin L. Dansby has filed a pro se “Motion for Emergency Relief, Protective Order, and Stay.” Pursuant to Court of Appeals Rule 40 (b), this Court has the inherent authority to issue emergency orders “as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot,” and “[g]enerally, no order will be made or direction given in an appeal until it has been docketed in this Court.” In order to invoke the Court’s emergency authority, a Rule 40 (b) motion must “contain a stamped ‘filed’ copy of the order being appealed” and “a copy of the notice of appeal, if such has been filed in the trial court.” Here, Dansby has no appeal docketed in this Court. Moreover, he failed to attach a stamped filed copy of the order being appealed. Thus, because Dansby has failed to satisfy the requirements of Rule 40 (b), this motion is hereby denied.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, JUN 5 2013

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

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

Holly H. O. Spawort, Clerk.

MOTIONS DOCKET

JUDGE # 97 MOTION DOCKET NUMBER MD 13-32

DATE 10 June 2013 REC # 108596 PAID BY: Paul R. Koehler

CHARGE: Motion for Extension of Time

STYLE: ANN HERRERA v. ROBERT W. LEAVENWORTH

ATTY AT: Paul R. Koehler, Esq.
4405 Northside Parkway, N.W.
Suite 120
Atlanta 30327

Ann J. Herrera, Esq.
201 Swanton Way
Decatur
30030

ATTY EE: Jon A. Gottlieb, Esq.
Flynn & Gottlieb
800 Johnson Ferry Road, N.E.
Atlanta 30342

LOWER COURT JUDGE: Judge Todd Markle

LOWER COURT CASE #: 2007 CV 14 0100

COUNTY: Fulton

JUDGMENT DATE 11 June 2013

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA,

JUN 11 2013

The Court of Appeals hereby passes the following order:

MD-13-32. HERRERA v. LEAVENWORTH et al.

On June 10, 2013, Petitioner Ann Herrera, Administrator for the Deceased Karla Leavenworth filed a Motion for Extension of Time to file a discretionary application from an order entered in Fulton Superior Court on April 4, 2013. Such application must be made within 30 days of the entry of order.¹ Because the Motion for Extension of Time was not filed within that 30 days, it is hereby DENIED.²



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

JUN 11 2013

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

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

Holly F. O. Sparrow, Clerk.

¹ See OCGA § 5-6-35 (a) (8) & (d).

² See Court of Appeals Rules 16 (c) & 31 (g).

MOTIONS DOCKET

JUDGE # 97 MOTION DOCKET NUMBER MD-13-33

DATE 6/25/2013 REC # 108681 PAID BY: Bush, Crowley & Laverett

CHARGE: Motion for Extension of Time to File Discretionary Appeal
STYLE: Dion Daugherty v. William A. Davis, Jr. et al.

ATTY NT:

J. Wayne Crowley
Bush, Crowley & Laverett, LLP
P.O. Box 232
MACON 31202

J. Anderson Raman, Jr.
Law Offices of Ken W. Smith, P.C.
P.O. Box 1745
Hazlehurst 31539

ATTY EE:

Ray N. Cowart
P.O. Box 818
WARNER ROBINS 31099

LOWER COURT JUDGE: Judge Tilman Self, III

LOWER COURT CASE #: 08-V-326

COUNTY: Peach County Superior Court

JUDGMENT DATE 26 June 2013

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, JUN 26 2013

The Court of Appeals hereby passes the following order:

MD-13-33. DAUGHERTY v. DAVIS et al.

Dion Daugherty has timely moved for an extension of time to file his discretionary application. The motion is hereby GRANTED, and his application shall be filed by August 12, 2013.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, JUN 26 2013

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

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

Hally H. O. Spencer, Clerk.

MOTIONS DOCKET

JUDGE # 99 MOTION DOCKET NUMBER MD-13-34

DATE 7-5-2013 REC # 108751 PAID BY: The West Firm PC

CHARGE: Superseadkas

STYLE: Kendal Megan Domenicone v. Michael S. Domenicone

ATTY NT:

Ms. Lisa Y.S. West
The West Firm, P.C.
235 Peachtree St. NE. Ste 400
Atlanta, GA 30303

ATTY EE:

Mr. Jeffrey Bogart
6400 Palwers Ferry Rd.
Suite 200
Atlanta, GA 30339

LOWER COURT JUDGE: Judge John J. Gogcr

LOWER COURT CASE #: 2012 CV 210735

COUNTY: Superior Court Fulton County

JUDGMENT DATE denied JUDGMENT: 7-5-2013

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, July 5, 2013

The Court of Appeals hereby passes the following order:

MD-13-34. KENDAL MEGAN DOMENICONE v. MICHAEL S. DOMENICONE.

On July 5, 2013, Kendal Domenicone (“appellant”) filed “a motion for emergency supersedeas” of the June 6, 2013 “Order on Petitioner’s Motion for Immediate Temporary Change of Custody and Emergency Hearing” issued by the Superior Court of Fulton County. However, although OCGA § 5-6-34 (a) (11) provides that a direct appeal is authorized from “[a]ll judgments or orders in child custody cases awarding, refusing to change, or modifying child custody” and a notice of such appeal shall serve as supersedeas, *see* OCGA § 5-6-46 (a), appellant has not filed a notice of appeal of the June 6, 2013 Order. Pursuant to Court of Appeals Rule 40 (b), “no order shall be made or direction given in an appeal until it has been docketed in this Court.” Accordingly, appellant’s “motion for emergency supersedeas” is DENIED. However, appellant may file a direct appeal of the June 6, 2013 Order by filing a notice of appeal within 30 days (by Monday, July 8, 2013) of that order.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 5, 2013*

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

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

Hally K. O. Spencer, Clerk.

MOTIONS DOCKET

JUDGE # 99 MOTION DOCKET NUMBER MA-13-35

DATE 8 July 2013 REC # _____ PAID BY: _____

CHARGE: Request for Extension - Discretionary Appeal

STYLE: Roberto BAEZ v. GA SOC

ATTY N: Mr. Roberto BAEZ 523445
Hancock State Prison
P.O. Box 339
Sparta, 31087

ATTY EP: Samuel OLENS, Attorney General
Ms. Sharon P. HORNE
Assistant Attorney General
40 Capitol Square, Atlanta 30334

DENNIS BROWN, WARDEN
Hancock State Prison
P.O. Box 339
Sparta, 31087

LOWER COURT JUDGE: Chief Judge Kathy S. PALMER

LOWER COURT CASE #: 12CV420

COUNTY: Washington

JUDGMENT DATE DENIED

JUDGMENT: 9 July 2013

MFR FILED 7/25/2013

1 Aug 2013 - Dismissal on Extension to File Discretionary Appeal

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, July 9, 2013

The Court of Appeals hereby passes the following order:

MD-1335. Roberto Baez v. Georgia Dept. of Corrections, et al.

By order dated June 4, 2013, the trial court dismissed prisoner Roberto Baez's civil action. On July 5, 2013, Baez filed an emergency motion requesting an extension of time in which to file his application for discretionary appeal. In *Gable v. State*, 290 Ga. 81 (720 SE2d 170) (2011), the Supreme Court concluded that, under OCGA § 5-6-39, an applicant may petition an appellate court for an extension of time in which to file an application for discretionary appeal. *Id.* at 85 (2) (a). A court, however, retains broad discretion in ascertaining whether such extension should be granted. See, e. g., *Schroder v. Murphy*, 282 Ga. App. 701, 703 (1) (639 SE2d 485) (2006). We decline to grant an extension here.

Baez seeks discretionary review of the trial court's order dismissing his claims against various prison officials for alleged violations of 42 USCA § 1983. In a detailed order, the trial court found that: (1) Baez was barred from filing in forma pauperis under OCGA § 42-12.7.2; (2) suit was barred because Baez failed to exhaust administrative remedies; (3) § 1983 claims against the defendants in their official capacities were barred; (4) Baez failed to state any § 1943 claims against the defendants in their individual capacities; (5) the defendants were immune from suit; and (6) Baez's failure to comply with the procedural requirements of the Georgia Tort Claims Act barred his tort claims.

Baez has already filed at least two applications seeking to challenge similar

rulings. See Case Number A09D0423, denied July 20,2009 and Case Number A11D0290, denied March 29, 2011. In fact, Baez has filed over 18 actions in this Court. See Case Numbers A92A1428, A95A0623, A95A0713, A95A2646, A99A1342, A99A1410, A02A0473, A02A0840, A06A1227, A07D0390, A07A2232, A08D0453, A09A0221, A10D0160., A11D0290, A11D0492, A12D0062, and A12D0197. Given Baez's history of meritless filings, we see no need to grant him an extension of time in which to file another such action. Accordingly, Baez's emergency motion for an extension of time in which to file an application for discretionary appeal is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 9, 2013*

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

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

Hally K. O. Francis, Clerk.

MOTIONS DOCKET

JUDGE # 99

MOTION DOCKET NUMBER MD-13-36

DATE 12 Jul 13 REC # _____ PAID BY: _____

CHARGE: Emergency Motion to Transmit Decision, Direction and Remittitur

STYLE: Fred L. Murray, Jr v. U-Haul Company, Inc.

ATTY FOR: Fred L. Murray, Pro Se
89 Ellis Street, N.E
Atlanta 30303

ATTY BE: U-Haul Co Inc
c/o CT Corp System
1201 Peachtree Street, N.E
Atlanta 30361

LOWER COURT JUDGE: Judge Todd Markle

LOWER COURT CASE # 2013 CV 231351

COUNTY: Fulton

JUDGMENT DATE 7/12/2013 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, July 12, 2013

The Court of Appeals hereby passes the following order:

MD-13-36. FRED L. MURRAY v. U-HAUL COMPANY INCORPORATED.

Fred L. Murray, Jr. has filed an “Emergency Motion to Transmit the Decision, Direction, and Remittitur to the Fulton County Georgia Superior Court.” Murray’s motion makes reference to prior filings in this Court, including an Application for Discretionary Appeal and Emergency Motion for Temporary Injunctive Relief, both filed May 16, 2013. Overall, the underlying facts of this case concern U-Haul Company Incorporated’s notice that it will auction Murray’s property due to delinquent payment.

Murray’s Application for Discretionary Appeal concerned a May 14, 2013 order from the Superior Court of Fulton County, which denied Murray’s request to proceed *in forma pauperis* in Civil Action No. 2013CV231351, determining that there was “lack of [a] justiciable issue of law or fact.” This Court granted Murray’s Application for Discretionary appeal because orders denying filing under OCGA § 9-15-2 (d) are directly appealable. Likewise, this Court granted Murray’s May 14, 2013 emergency motion “to prevent [the discretionary appeal] from becoming moot.” Murray was directed to file a notice of appeal with the trial court within ten days, which he did. Thereafter, the Superior Court of Fulton County issued a bill of costs to Murray on June 11, 2013, for the costs of preparing Murray’s appeal of the trial court’s May 14 order denying his status as a pauper. In Murray’s current Emergency Motion before this Court, he appears to take issue with the trial court having sought payment of costs for the preparation of his appellate record. But any issue Murray has with the payment of costs for same must be handled in the appropriate manner before the lower court, not this Court.

Murray also takes issue with the lack of a remittitur from this Court to the trial court. However, remittiturs are issued after this Court has rendered a judgment in an appeal,¹ and no judgment has been rendered on the merits of Murray's appeal.²

Murray also takes issue with a notice he received from U-Haul on May 29, 2013, that purports to show that the subject property will be auctioned on July 19, 2013. The prior motions before this Court concerned a threat by U-Haul to auction Murray's property on May 15, 2013. But the grant of Murray's application for discretionary appeal and subsequent filing of his notice of appeal served as supersedeas.³

Finally, the remainder of Murray's motion seeks direction from this Court that would amount to the provision of legal advice, which this Court does not provide.⁴

Accordingly, for all the foregoing reasons, Murray's Emergency Motion is hereby ***DENIED***.

¹ See Court of Appeals Rule 39 (a) ("Remittiturs shall be transmitted to the clerk of the trial court as soon as practicable after the expiration of 10 days *from the date of the judgment* (emphasis supplied)); see also OCGA § 5-6-10 ("The *decision* of the appellate court and *any direction awarded in the case* shall be certified by the clerk to the court below, under the seal of the court. The *decision and direction* shall be respected and carried into full effect in good faith by the court below." (emphasis supplied)).

² In fact, Murray's appeal has not yet been docketed in this Court because "[n]o appeal shall be docketed until the notice of appeal *and* a record, and transcript, if requested, are filed in the Clerk's office." Court of Appeals Rule 11 (a).

³ See OCGA § 5-6-46 (a).

⁴ See, e.g., *Hammonds v. Parks*, 319 Ga. App. 792, 796 (6) (735 SE2d 801) (2012) ("[W]e are a court for the correction of errors of law committed in the trial court.").



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, July 12, 2013

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

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

Holly K. O. Spawor _____, Clerk.

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER MD-13-37

DATE 8-7-2013 REC # 108967 PAID BY: Akin & Tate P.C.

CHARGE: Supersedeas

STYLE: Seth Ansell v. Anna A. Ansell

ATTY NT:
William Morgan Akin, Esq.
Akin & Tate, PC
POB 878, Cartersville 30120

S. Hester Tate, Esq.
Akin & Tate, PC
POB 878
Cartersville 30120

Charles Crawford, Esq.
PO Box 520
Cartersville 30120

ATTY EE:
Christian A. Coomer, Esq.
127 A West Main Street
Cartersville 30120

LOWER COURT JUDGE: G. Carey Nelson

LOWER COURT CASE #: 11 CV 1889

COUNTY: Superior Court of Bartow County

JUDGMENT DATE 7 August 2013

JUDGMENT: DENIED

MFR FILED _____

RESPONSES _____

NOI FILED 8/20/2013 cert denied - 4/22/14

Court of Appeals of the State of Georgia

ATLANTA, AUG 7 2013

The Court of Appeals hereby passes the following order:

MD-13-37. ANSELL v. ANSELL n/k/a LESSARD.

This case involves an appeal from a child custody order in which the trial court, among other things, ordered that the appellant father “cooperate with the [m]other in executing the necessary documents to obtain a U. S. passport for [the minor child]” by “execut[ing] and return[ing] to the [m]other the necessary forms, properly executed, within 10 days of receipt of the same.” Pursuant to Court of Appeals Rule 40 (b), the father has moved for supersedeas pending appeal, arguing that the trial court’s order violated the Supremacy Clause of the United States Constitution. This argument is not persuasive. (In an application for discretionary appeal, the father indicated that he also intended to argue on appeal that the trial court abused its discretion in that portion of the order relating to the passport, but he did not make such argument in either the application or his motion for supersedeas.)

Under the Supremacy Clause, found in Article VI of the United States Constitution, “state courts cannot refuse to apply federal law.” *Printz v. United States*, 521 U. S. 898, 928-929 (IV) (117 SCt 2365, 138 LEd 914) (1997). The father, however, has not shown that the trial court in this case refused to apply federal law when it ordered him to execute the forms necessary for the mother to obtain a passport for the child. 22 U. S. C. A. § 213, to which the father cites, provides:

Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application which shall contain a true recital of each and every matter of

fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. If the applicant has not previously been issued a United States passport, the application shall be duly verified by his oath before a person authorized and empowered by the Secretary of State to administer oaths.

This codified provision of the statute sheds no light on the requirements for the issuance of passports to children. An uncodified provision of the statute requires the promulgation of regulations for issuance of passports to children.

The regulations accordingly promulgated acknowledge the authority of a trial court to issue custody orders that affect the documentation required to obtain a passport for a child. The regulation at 22 CFR § 51.28 (a) (3) (ii) (E) pertinently provides that “[d]ocumentary evidence that [a parent] has sole custody of the minor . . . includes . . . “[a]n *order of a court* of competent jurisdiction . . . specifically authorizing the applying parent . . . to obtain a passport for the minor, *regardless of custodial arrangements*[.]” (Emphasis supplied.) And 22 CFR § 51.28 (c) (2) pertinently provides that “[a]n order from a court of competent jurisdiction providing for joint legal custody . . . will be interpreted as requiring the permission of both parents *or the court* as appropriate.” (Emphasis supplied.)

Consistent with these regulations, the trial court in this case could have issued a custody order permitting the issuance of a passport to the child over the father’s objection. The order at issue here did essentially the same thing by requiring the father to furnish the necessary documents for the passport. The order did not conflict with federal law, such that it would be barred by the Supremacy Clause.

Accordingly, the father has not shown a likelihood of success on the merits of his appeal as to the provision ordering him to provide the passport application documents. The motion for supersedeas pending appeal is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 7 2013

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

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

Hally F. O. Sparrow, Clerk.

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER MD-14-001

DATE Aug. 23, 2013 REC # MD14-001 PAID BY: Melvin Raines

style
CHARGE: New Jerusalem Baptist v. Sebastian Kollidge Holly LLC

Charge
STYLE: Motion for Extension of Time to file Application

ATTY NT:

Melvin Raines, II
5448 Stone Cove Dr. SW
Atlanta, GA 30331
(678) 793-0427

Janelle T. Calhoun
P.O. Box 2456
Gray, GA 31032

ATTY EE:

Calhoun Law Firm PC
Janelle T. Calhoun
P.O. Box 2456
Gray, GA 31032

LOWER COURT JUDGE: Honorable James L. Cline Jr

LOWER COURT CASE #: 12-CV-175

COUNTY: Jones

JUDGMENT DATE 8-26-13

JUDGMENT: Granted Ext.

MFR FILED NO

RESPONSES NO

NOI FILED NO

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

ATLANTA, AUG 28 2013

The Court of Appeals hereby passes the following order:

**MD-14-001. NEW JERUSALEM BAPTIST CHURCH OF GRAY, GEORGIA,
INC., DBA NEW JERUSALEM BIBLE CHURCH OF PO BOX 2184 v.
SEBASTIAN KOOLIDGE HOLDINGS, LLC.**

Appellant's Motion For An Extension Of Time to File Discretionary Application For Appeal having been considered, it is hereby ordered that the motion is GRANTED. Appellant's application for discretionary appeal shall be filed no later than September 23, 2013.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 28 2013*

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

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

Holly H. O. Spawort , Clerk.

**COURT OF APPEALS OF GEORGIA
EMERGENCY MOTIONS**

INDEX

2014 EMERGENCY MOTIONS		
MD14-001	New Jerusalem Baptist Church v. Sebastian Koolidge Holdings, LLC	Extension of time to file Discretionary Application
MD14-002	Fannie M. Vinson v. Wellington Manor Homeowners Association, Inc.	Extension of time to file Discretionary Application
MD14-003	Dazia M. Fumbah v. State Board of Workers' Compensation	Extension of time to file Discretionary Application
MD14-004	Terrence Robinson v. Ninita K. McCan	Extension of time to file Application

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER MD-14-⁰¹~~11~~

DATE 8/23/2013 REC # 109117 PAID BY: The Law Office of Melvin Raines, II

CHARGE: For Extension of Time to File Discretionary Application

STYLE: New Jerusalem Baptist Church v. Sebastian Koolidge Holdings, LLC

ATTY NT:

Melvin Raines, II
The Law Office of Melvin Raines, II
5448 Stone Cove Dr., SW
Atlanta, GA 30331

ATTY EE:

Janelle Calhoun
Calhoun Law Firm, P.C.
P.O. Box 2456
Gray, GA 31032

LOWER COURT JUDGE: Judge James H. Cline, Jr.

LOWER COURT CASE #: 12-CV-175

COUNTY: Superior Court Jones County

JUDGMENT DATE 26 August 2013 JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

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

ATLANTA, AUG 26 2013

The Court of Appeals hereby passes the following order:

**MD-14-001. NEW JERUSALEM BAPTIST CHURCH OF GRAY, GEORGIA,
INC., DBA NEW JERUSALEM BIBLE CHURCH OF PO BOX 2184 v.
SEBASTIAN KOOLIDGE HOLDINGS, LLC.**

Appellant's Motion For An Extension Of Time to File Discretionary Application For Appeal having been considered, it is hereby ordered that the motion is GRANTED. Appellant's application for discretionary appeal shall be filed no later than September 23, 2013.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 26 2013

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

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

Hally H. O. Spawort....., Clerk.

MOTIONS DOCKET

JUDGE # 96 MOTION DOCKET NUMBER MD-14-02

DATE 8/29/2013 REC # 9999 PAID BY: _____

CHARGE: Motion for Extension of time to file Application

STYLE: Fannie M. Vinson v. Wellington Manor Homeowners Assn., Inc.

ATTY NT:

Fannie Vinson, Pro Se
5935 Trentwalk Dr
Atlanta, GA 30038

ATTY EE:

Ralph (Skip) Breeden, III
hueder, harkin & Hunter LLC
5900 Windward Parkway, Ste. 390
Alpharetta, GA 30005

Judge

LOWER COURT JUDGE: Clarence Seeliger

LOWER COURT CASE #: 12CV13646-3

COUNTY: Superior Court of DeKalb County

JUDGMENT DATE 8-30-2013

JUDGMENT: Granted

MFR FILED _____

RESPONSES _____

NOI FILED _____

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

ATLANTA, AUG 30 2013

The Court of Appeals hereby passes the following order:

**MD-14-02. FANNIE M. VINSON v. WELLINGTON MANOR
HOMEOWNERS ASSOCIATION, INC.**

The APPELLANT'S motion for AN EXTENSION OF TIME in which to file a
Discretionary Application in the above-styled case is hereby GRANTED until 09/09/2013.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, AUG 30 2013*

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

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

Hally K. O. Spencer....., Clerk.

MOTIONS DOCKET

JUDGE # 90 MOTION DOCKET NUMBER MD-14-04

DATE 9/19/13 REC # 9999 PAID BY: pauper

CHARGE: Motion for Extension of Time to File Application

STYLE: Terrence Robinson v. Minita K. McCas

ATTY NT: Terrence Robinson, Pro Se
1401 N. Peachtree Road, Apt 2202
Atlanta 30327

ATTY EE: Minita K. McCas
130 Windwood Drive
Macon 31216

LOWER COURT JUDGE: Allyson R. Pitts, Assoc. Judge

LOWER COURT CASE #: 2013 CV230121

COUNTY: Fulton County Superior Court

JUDGMENT DATE 19 September 2013 JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

Court of Appeals of the State of Georgia

ATLANTA, SEP 19 2013

The Court of Appeals hereby passes the following order:

MD-14-04. ROBINSON v. McCAN.

Terrence Robinson's "Request for Extension of Time fo File an Application"
is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, SEP 19 2013

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

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

Stephen E. Caston Clerk.

MOTIONS DOCKET

JUDGE # Ray MOTION DOCKET NUMBER A14E 0001

DATE Oct 15, 2015 REC # _____ PAID BY: city NT

CHARGE: Motion for Extension of Time to file appeal

STYLE: William Fildburn & Michael Johnson v 777 Capital

ATTY NT:

Mr Michael Johnson

ATTY EE:

Mr William West

LOWER COURT JUDGE: Arch McGarity

LOWER COURT CASE #: 2012 CV 2818 AM

COUNTY: Henry

JUDGMENT DATE 9 OCT 13

JUDGMENT: Denied

MFR FILED _____

RESPONSES _____

NOI FILED _____

COURT OF APPEALS OF GEORGIA

47 Trinity Avenue, SW, Suite 501
ATLANTA, GEORGIA 30334
(404) 656-3450

APPEAL SUMMARY PAGE

CLASSIFICATION: ATTORNEY FEES BY COURT ORDER

CASE NUMBER: A14E0001

DATE OF DOCKETING: October 15, 2013

STYLE: WILLIAM FELDHAUS AND MICHAEL R. JOHNSON v. 777 CAPITAL
ASSIGN TO: J. William M. Ray

LOWER COURT SUMMARY INFORMATION:

Henry County Superior Court 2012CV2818AM

TRIAL JUDGE: Hon. ARCH MCGARITY

RECORDS

DESCRIPTION

PARTS

DATE OF JUDGMENT: 2013-10-09
NOTICE OF APPEAL DATE:

Term: J Cal. Mo.: 0114

COURT OF APPEALS OF GEORGIA

47 Trinity Avenue, SW, Suite 501
ATLANTA, GEORGIA 30334
(404) 656-3450

ATTORNEY SUMMARY SHEET

CASE NUMBER: A14E0001

DATE OF DOCKETING: October 15, 2013

STYLE: WILLIAM FELDHAUS AND MICHAEL R. JOHNSON v. 777 CAPITAL

LC NUMBERS:
2012CV2818AM

ATTORNEY REGISTER:

FOR NT:

Mr. Michael Johnson
JOHNSON & ASSOCIATES, P.C.
340 W. PEACHTREE STREET, N.W.
SUITE 200
ATLANTA, GA 30308

FOR EE:

Mr. William West
ATTORNEY AT LAW
100 CORPORATE CENTER DRIVE
SUITE A
STOCKBRIDGE, GA 30281

judgment and granted a Motion For Attorney's Fees by Appellee. **The error alleged is that it was an abuse of discretion to award attorneys fees against Appellant's counsel for fees and costs incurred prior to Counsel's appearance on the case, for matters voluntarily dismissed by counsel for Appellee and further error to award attorney's fees for actions taken in good faith and additionally error to refuse to grant a new trial the underlying eviction case.** The Orders are final. This matter is time sensitive as the matter has its genesis in a dispossessionary action and the Petition For Appeal must be filed within seven (7) days. This Court has jurisdiction over this application because the subject matter is not among those that are reserved to the Supreme Court of Georgia pursuant to the Georgia Appellate Practice Act.

Attached hereto as Exhibits are copies of the Orders being appealed.

A copy of this Motion was emailed to opposing counsel prior its filing. A certificate of service is attached.

Logistics, the press of other matters, and family matters have made it impossible for Appellee to make a complete filing herein. Additional time is also required for the preparation of a transcript which it is estimated will require in the vicinity or two weeks.

CONCLUSION

Appellant submits that this is one the rare occurrences which warrants the relief requested herein pursuant to rule 40(b)

Respectfully submitted this the 15th day of October, 2013.

5208 Roswell Rd.
Atlanta, GA 30342
Telephone: 404.688.7100
Facsimile: 678.254.1792

JOHNSON & ASSOCIATES, P.C.



Michael R. Johnson, Sr.
Attorney for Appellee:
State Bar of Ga. 395056

OCT 09 2013

STATE OF GEORGIA

Barbara A. Harrison
CLERK OF SUPERIOR COURT

777 CAPITAL, LLC
Plaintiff,

}

CIVIL ACTION

vs.

}

FILE NO. 2012CV2818 AM

WILLIAM FELDHAUS,
Defendant.

}

ORDER ON PLAINTIFF'S MOTION FOR ATTORNEY'S FEES

The Plaintiff's Motion for Attorney's Fees came on regularly for hearing before this Court on October 9, 2013. Upon consideration of the full record and all pleadings and argument of counsel,

The Court finds that:

(1) there existed such a complete absence of any justiciable issue of law or fact to support the defenses raised by Defendant William Feldhaus and his attorney, Michael R. Johnson;

(2) the defenses raised by Defendant William Feldhaus and his attorney, Michael R. Johnson, lacked any justification and were interposed for delay and harassment; and

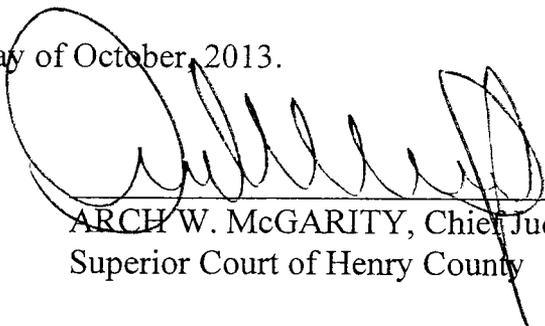
(3) the defenses raised by Defendant William Feldhaus and his attorney, Michael R. Johnson, were substantially frivolous.

IT IS HEREBY ORDERED and ADJUDGED that judgment be entered in favor of Plaintiff 777 Capital, LLC, as against Defendant William Feldhaus and his attorney, Michael R. Johnson, jointly and severally, in the amount of \$5,595.85, as and for Plaintiff's attorney's fees and other expenses of litigation, plus costs.

IT IS FURTHER ORDERED that the Clerk of this Court shall disburse to 777 Capital, LLC, in care of its attorney, William W. West, the rents paid into the registry of the Court by William Feldhaus on August 30, 2013 (\$700.00), to be applied to the above judgment.

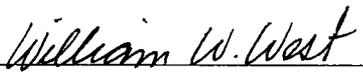
IT IS FURTHER ORDERED that the balance of the judgment shall be deemed as court costs to be paid in full prior to the filing of any subsequent action; and, there shall be no transmission of any record for appellate review until such court costs and the attorney's fees awarded above are paid in full.

SO ORDERED this 9 day of October, 2013.



ARCH W. MCGARITY, Chief Judge
Superior Court of Henry County

Prepared by:



WILLIAM W. WEST
Attorney for Plaintiff
Georgia Bar No. 749450
(O) 678-565-8976
(F) 678-565-8974
wwwestlaw@earthlink.net

IN THE SUPERIOR COURT OF HENRY COUNTY

FILED IN OPEN COURT
SUPERIOR COURT
HENRY COUNTY, GEORGIA

STATE OF GEORGIA

OCT - 8 2013

Glenn P. James, Jr.
CLERK OF SUPERIOR COURT

777 CAPITAL, LLC
Plaintiff,

}
}
}
}
}
}

CIVIL ACTION

vs.

FILE NO. 2012CV2818 AM

WILLIAM FELDHAUS,
Defendant.

**ORDER ON DEFENDANT'S EXTRAORDINARY MOTION
FOR NEW TRIAL AND TO SET ASIDE JUDGMENT**

The Defendant's Extraordinary Motion for New Trial and to Set Aside Judgment having been read and considered, and the Court having held a hearing on October 9, 2013 and considered the full record and all pleadings and argument of counsel,

IT IS HEREBY ORDERED and ADJUDGED that the Defendant's Extraordinary Motion for New Trial and to Set Aside Judgment is hereby DENIED on each and every ground alleged by the Defendant.

SO ORDERED this 9th day of October, 2013.

Arch W. McGarity
ARCH W. MCGARITY, Chief Judge
Superior Court of Henry County

Prepared by:

William W. West
WILLIAM W. WEST
Attorney for Plaintiff
Georgia Bar No. 749450
(O) 678-565-8976
(F) 678-565-8974
wwwestlaw@earthlink.net

CERTIFICATE OF SERVICE

I have this date served a true and complete copy of the above and foregoing
upon:

William W. West, Esq.
100 Corporate Center Dr., Ste. A
Stock bridge, GA 30281

by facsimile 678-656-8974 and statutory electronic service (email)

wwwestlaw@earthlink.net prior to the filing hereof.

Respectfully submitted this 15th day of October, 2013.

JOHNSON & ASSOCIATES, P.C.



Michael R. Johnson, Sr.
Attorney for Plaintiff:
State Bar of Ga. 395056

5208 Roswell Rd.
Atlanta, GA 30342
Telephone: 404.688.7100
Facsimile: 678.254.1792

**COURT OF APPEALS OF GEORGIA
EMERGENCY MOTIONS**

INDEX

2014 E-FILED EMERGENCY MOTIONS		
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A14E0002	The Hartford Steam Boiler v. Klay Armstrong	Amend Certificate of Service
A14E0003	Fieldale Farms Corporation v. Mark E. Blakely	Expedited Review
A14E0004	Optumrx, Inc. v. GA Department of Community Health	Stay Proceedings
A14E0005	Agnes Sarfo v. PNC Bank, N.E.	Expedited Review on Discretionary Application
A14E0006	Optumrx, Inc. v. GA Department of Community Health	Order to Set Immediate Bond
A14E0007	Crawford Lewis v. The State	Motion to Set Aside
A14E0008	Selena Gooden v. Zachary Ellis	Probation Revocation
A14 E0009	Terrell Haji v. The State	Extension for Discretionary Application
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A14E0012	U&Z Trading, Inc., et al. v. Gregory D. Day, et al.	Extension of Time to File Application
A14E0013	Triple V. Salon and Spa, et al. v. Gregory D. Day, et al.	Extension of Time to File Application
A14E0014	Ricky Jones v. The State	Extension of Time to File Application
A14E0015	Randy Horn v. Brandie A. Shepherd	Supersedeas
A14E0016	Ashley Chesney v. The State	Extension of Time to File Application
A14E0017	Cynthia Welch v. SunTrust Mortgage Inc.	Emergency Stay
A14E0018	Sean Griffith v. Jovita Griffith	Extension of Time to File Discretionary Application
A14E0019	Richard C. Stanley v. The Bank of New York	Emergency Stay
A14E0020	Georgia Department of Human Resources v. David Tyrone Fordham	Extension of Time to File Discretionary Application
A14E0021	Wilhy Harpo v. Mordena Bolt	Reinstate Discretionary Application
A14E0022	Abdou Barrow v. Robert Mikell, Commissioner	Extension of Time to File Discretionary Application
A14E0023	Willis Franklin Roberson v. The State	Supersedeas
A14E0024	Cynthia Welch v. SunTrust Mortgage, inc.	Case Un-docketed

A14E0025	Kwok C. Chan v. Federal Home Loan Mortgage Corporation	Supersedes
A14E0026	Stephanie Chatman v. Hancock County School District, et al.	Extension of Time to File Application
A14E0027	James Wallen Snuggs, Sr. v. John Mason Snuggs, Sr, et al.	Extension of Time to File Application
A14E0028	In the Interest of: R.E., M.C., L.P. and J.P., Minor Children	Extension of Time to File Discretionary Application
A14E0029	Roy Munn v. Mandarin House II and Shuojun Zhao	Extension of Time to File Discretionary Application
A14E0030	Ernest Howard, Sr. v. The State	Emergency Motion
A14E0031	Mary Ann Whipple Lue, as Mayor of the City of Gordon v. Terry Eady, et al.	Emergency Motion for Supersedeas
A14E0032	Kendal Megan Domenicone v. Michael S. Domenicone	Supersedeas
A14E0033	Michael Matthews v. The State	Extension of Time to File Discretionary Application
A14E0034	Allison N. Marks v. Lilton J. Marks	Extension of Time to File Discretionary Application
A14E0035	In the Interest of: A.N.T., a Child	Extension of Time to File Discretionary Application
A14E0036	Allison Zarem v. SouthCoast Properties, LLC	Extension of Time to File Discretionary Application
A14E0037	Anisa, Inc. v. City of Dallas, Georgia, et al.	Extension of Time to File Discretionary Application

Court of Appeals of the State of Georgia

ATLANTA, October 16, 2013

The Court of Appeals hereby passes the following order:

A14E0001. William Feldhaus and Michael Johnson v. 777 Capital, LLC.

Upon consideration of the Emergency Motion Pursuant to Rule 40(b) for Additional Time to File and Perfect Petition for Appeal Pursuant to O.C.G.A. § 5-6-35, it is hereby ORDERED that Appellants' Motion be granted and Appellants shall have through and until NOVEMBER 1, 2013 TO file an Application for Discretionary Appeal.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/16/2013*

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

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

Stephen E. Carlton , Clerk.

Court of Appeals of the State of Georgia

ATLANTA, October 18, 2013

The Court of Appeals hereby passes the following order:

**A14E0002. HARTFORD STEAM BOILER INSPECTION AND INSURANCE
CO. et al. v. EVANS.**

Upon consideration of appellants' emergency motion pursuant to Court of Appeals Rule 40 (b), it is ordered that same is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/18/2013

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

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

Stephen E. Castle

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, October 21, 2013

The Court of Appeals hereby passes the following order:

A14E0003. FIELDALE FARMS v. BLAKELY.

Appellant has filed an emergency motion pursuant to Court of Appeals Rule 40 (b) seeking "an order allowing appellant to amend a certificate of service accompanying its timely filed application for discretionary appeal." Upon consideration of that motion and the Appellee's response thereto, this Court hereby orders the Clerk of the Court of Appeals to provisionally accept for filing the application for discretionary appeal. In doing so, this Court withholds ruling upon the issue of whether the application for discretionary appeal has been timely filed; that issue is preserved for further consideration by this Court. If the application for discretionary appeal is granted by the Court, then the parties are directed to include in their appellate briefs argument and citation to authority on the issue of whether the appeal is properly before this Court.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/21/2013*

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

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

Stephen E. Costello, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, November 25, 2013

The Court of Appeals hereby passes the following order:

**A14E0004. OPTUMRX, INC. v. GEORGIA DEPARTMENT OF
COMMUNITY HEALTH.**

Appellant OptumRx, Inc. brings this emergency motion from the trial court's order of November 13, 2013, granting appellee Georgia Department of Community Health (DCH)'s motion to dismiss OptumRx's complaint. OptumRx asserts that this Court should decide OptumRx's appeal before January 1, 2014, when a contract with OptumRx's competitor to provide services under the Pharmacy Benefits Management portion of the State Health Benefits Plan takes effect, because State of Georgia employees, their families, and/or Georgia taxpayers will suffer "substantial harm" as of that date. In the alternative, OptumRx argues that this Court should use its emergency powers to stay implementation of the contract.

OptumRx has not shown that this Court must take any action before January 1, 2014, in order to prevent the issues presented in this appeal from becoming moot. Because OptumRx's motion thus fails to meet the requirements of Rule 40 (b), the motion is DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/25/2013*

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, November 18, 2013

The Court of Appeals hereby passes the following order:

A14E0005. SARFO v. PNC BANK N. A.

Agnes Sarfo filed this emergency motion seeking an order that would stay eviction proceedings in order to allow her to appeal a combined grant of summary judgment and grant of a writ of possession issued by the Superior Court of Douglas County. Sarfo's motion shows that the case came to the superior court by appeal from the Magistrate Court of Douglas County from an order granting a writ of possession for real property. On November 5, 2013, the superior court granted summary judgment and a writ of possession in favor of PNC Bank N. A. and entered judgment that day; Sarfo admits that she received notice of the decision on November 9, 2013. OCGA § 44-7-56 provides that any appeal of a dispossessory judgment must be filed within seven days of when the judgment was entered, but Sarfo failed to file a notice an appeal of the judgment within that time. As a result, Sarfo may not challenge the writ of possession. See *Fritz v. Shadwich*, 312 Ga. App. 906 (720 SE2d 361) (2011); *Radio Sandy Springs v. Allen Rd. Joint Venture*, 311 Ga. App. 334 (715 SE2d 752) (2011).

For the above reasons, Sarfo has failed to state a ground for emergency relief under Rule 40 (b). Sarfo's emergency motion is therefore DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/18/2013

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

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

Stephen E. Carlton _____, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, May 15, 2014

The Court of Appeals hereby passes the following order

A14E0005. AGNES SARFO v. PNC BANK N.A..

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 15, 2014.*

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

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

Stephen E. Castles, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, December 02, 2013

The Court of Appeals hereby passes the following order:

**A14E0006. OPTUMRX, INC. v. GEORGIA DEPARTMENT OF
COMMUNITY HEALTH.**

OptumRx has filed an emergency motion to file a forthcoming discretionary application under seal.

Because the motion before us does not meet the requirements of Rule 40 (b), it is DENIED. If an application or appeal is later filed as to which OptumRx is a party, OptumRx may to move this Court at that time “for an order to seal or unseal any record in the Court.” Rule 18 (b).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/02/2013

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

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

Stephen E. Carlton

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, December 13, 2013

The Court of Appeals hereby passes the following order:

A14E0007. LEWIS v. THE STATE.

On October 16, 2013, Defendant Crawford Lewis entered into a negotiated plea to one count of misdemeanor hindering/obstruction, in the Superior Court of DeKalb County, Indictment No. 13-CR-3546-6. Sentencing was deferred until after the trial of co-defendants, at which Lewis agreed to testify truthfully as a part of the plea.

On December 9, 2013, the Superior Court conducted a sentencing hearing at which the court declined to impose the sentence recommended by the State. Lewis thereafter attempted to withdraw from the plea, but based on the record before us, it appears that a sentence of one year in confinement was imposed and Lewis was remanded into custody.

On December 10, 2013, Lewis filed an emergency motion to enforce the negotiated plea or, alternatively, to withdraw the plea in the Superior Court. On December 11, 2013, the court scheduled a hearing on that emergency motion for December 17, 2013. Thereafter, Lewis filed an emergency motion for bond, to which the State has apparently consented. The Superior Court subsequently indicated that the emergency motion for bond would also be taken up at the scheduled December 17, 2013 hearing. Lewis has now filed an emergency motion with this Court, requesting an order that the Superior Court immediately issue a bond pursuant to OCGA § 17-6-1 (b) (1).

OCGA § 17-6-1 (b) (1) provides that, except in cases inapplicable here, “at no time, either before a court of inquiry, when indicted or accused, or after a motion for new trial is made, or while an appeal is pending, shall any person charged with a misdemeanor be refused bail.” Accordingly, we hereby GRANT Lewis’s emergency

motion and direct the trial court to set a reasonable bond *instanter*. The Clerk of this Court is hereby directed to immediately transmit a copy of this Order to the Clerk of the Superior Court of DeKalb County.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, December 13, 2013

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

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

Stephen E. Castles, Clerk.

Court of Appeals of the State of Georgia

ATLANTA December 20, 2013

The Court of Appeals hereby passes the following order:

A14E0008. SELENA GOODEN v. ZACHARY ELLIS et al.

Selena Gooden, the mother of C.G., a minor child, has filed, pro se, an emergency motion under Court of Appeals Rule 40 (b) seeking to vacate and set aside an order issued in the Juvenile Court of Gwinnett County on November 20, 2007 following a petition for modification of child support and visitation. Court of Appeals 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 shall be exercised sparingly. Generally, no order shall be made or direction given in an appeal until it has been docketed in this Court.

After careful review and consideration, we find that Gooden has failed to support her motion by showing that the matter comes within the purview of Rule 40 (b). Therefore, her motion is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/20/2013

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

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

Stephen E. Caston

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA December 20, 2013

The Court of Appeals hereby passes the following order:

A14E0009. TERRELL HAJI v. THE STATE.

Terrell Haji has filed an emergency motion pursuant to Court of Appeals Rule 40 (b) seeking a supersedeas bond during the pendency of his appeal from the trial court's November 13, 2013 order revoking his probation. After careful review and consideration, we find that Haji has failed to establish that he is entitled to relief under Rule 40 (b). Accordingly, his motion is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/20/2013*

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

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

Stephen E. Castles, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, December 27, 2013

The Court of Appeals hereby passes the following order:

A14E0010. ALLAN SEAGO v. THE ESTATE OF BERRY EARLE, III.

Upon consideration, Allan Seago's request for an extension of time to file an application for discretionary appeal from the trial court's order entered on November 26, 2013 is hereby GRANTED. Seago shall have until 4:30 p.m. on Monday, December 30, 2013, to file his application.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/27/2013

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

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

Stephen E. Costen

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA December 27, 2013

The Court of Appeals hereby passes the following order:

A14E0011. EDWARD K. AGYEMAN v. FIRST NATIONAL MORTGAGE ASSOCIATION.

Edward K. Agyeman has filed an emergency request for stay, permission to appeal and a petition for writ of mandamus from orders of the Superior Court of Douglas County filed on December 13, 2013, granting summary judgment to First National Mortgage Association and December 20, 2013, granting a writ of possession to First National Mortgage Association.

Upon consideration, and pursuant to the inherent power of this Court to issue orders under Court of Appeals Rule 40 (b), we hereby construe Agyeman's emergency motion as a request to file an application for discretionary appeal, and grant him a seven day extension from the date of this order to file an application in compliance with all applicable rules and procedures governing the filing of such applications.¹ See OCGA § 5-6-35 and Court of Appeals Rule 31; see also OCGA § 5-6-35 (11) (discretionary appeal procedure applicable to orders from the superior court reviewing decision of the magistrate court by de novo proceedings).

Further, "the filing of an application for appeal shall act as a supersedeas to the

¹ We note that OCGA § 44-7-56 requires that appeals or applications for appeal from judgments of this type must be filed within seven days of the date the judgment was entered and that Agyeman's emergency motion was on December 27, 2013, within seven days of the trial court's order issued on December 20, 2013. Because this motion was timely filed, we have the authority to extend the time for filing the application for discretionary appeal. See OCGA § 5-6-39 (a) (5) and (d); Court of Appeals Rule 31 (g).

extent that a notice of appeal acts as supersedeas,” OCGA § 5-6-35 (h); see also Court of Appeals Rule 40 (a), and thus we find it unnecessary to issue a stay in this matter. Lastly, Agyeman’s petition for mandamus appears in substance to merely assert error in the trial court’s orders and these arguments should be more properly raised as such in his application for discretionary appeal. Accordingly, we decline to transfer this motion to the Supreme Court for consideration. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5) (the Supreme Court of Georgia has exclusive appellate jurisdiction of all cases involving extraordinary remedies including mandamus).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/27/2013

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

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

Stephen E. Costello, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, January 08, 2014

The Court of Appeals hereby passes the following order:

**A14E0012. U&Z TRADING, INC. AND ZEHN JIN LI v. CITY OF
DORAVILLE.**

Appellants' motion for extension of time to file application for discretionary appeal is hereby GRANTED. Appellants shall have 30 days from January 9, 2014 in which to file their application.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/08/2014*

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

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

Stephen E. Caston, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, January 08, 2014

The Court of Appeals hereby passes the following order:

A14E0013. TRIPLE V SALON AND SPA 18, INC. v. CITY OF DORAVILLE.

Appellants' motion for extension of time to file application for discretionary appeal is hereby GRANTED. Appellants shall have 30 days from January 9, 2014 in which to file their application.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/08/2014*

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, January 09, 2014

The Court of Appeals hereby passes the following order:

A14E0014. RICKY JONES v. STATE OF GEORGIA.

Applicant's motion for extension of time to file application for discretionary appeal is hereby GRANTED. Applicant shall have 30 days from January 8, 2014 in which to file the application.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 01/09/2014

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, February 20, 2014

The Court of Appeals hereby passes the following order

A14E0015. RANDY HORN v. BRANDIE A. SHEPHERD.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 20, 2014.*

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

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

Stephen E. Caston, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, February 21, 2014

The Court of Appeals hereby passes the following order:

A14E0016. CHESNEY v. THE STATE

It appearing the order of this Court issued February 20, 2014, is incorrect due to clerical error, it is hereby ordered that said order is VACATED and the order hereto be substituted therefore also correcting the date of the order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, February 21, 2014

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

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

Stephen E. Costen _____, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, February 21, 2014

The Court of Appeals hereby passes the following order:

A14E0016. CHESNEY v. THE STATE

Upon consideration, Ashley Chesney's request for an extension of time to file an application for discretionary appeal from the trial court's order entered on January 16, 2014 is hereby GRANTED. See OCGA § 5-6-39 (a); *Gable v. State*, 290 Ga. 81, 84-85 (2) (a) (720 SE2d 170) (2011). Chesney shall have until Monday, March 10, 2014 to file her application.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, February 21, 2014

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

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

Stephen E. Caston

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, February 20, 2014

The Court of Appeals hereby passes the following order:

A14E0016. CHESNEY v. THE STATE.

Upon consideration, Ashley Chesney's request for an extension of time to file an application for discretionary appeal from the trial court's order entered on January 16, 2014 is hereby GRANTED. See OCGA § 5-6-39 (a); *Gable v. State*, 290 Ga. 81, 84-85 (2) (a) (720 SE2d 170) (2011). Chesney shall have until Monday, March 10, 2014 to file her application.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/20/2014*

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, March 04, 2014

The Court of Appeals hereby passes the following order:

A14E0017. WELCH v. SUNTRUST MORTGAGE, INC.

Cynthia Welch filed suit against Suntrust Mortgage, Inc., seeking to enjoin Suntrust from proceeding with the foreclosure of her property. On September 24, 2013, the trial court granted summary judgment to Suntrust, and dismissed Welch's complaint in its entirety with prejudice.

On November 6, 2013, this Court granted Welch's application for discretionary appeal under OCGA § 5-6-35 (j). Due to problems with compilation of the record below, however, Welch's appeal was not docketed in this Court until March 4, 2014. Consequently, Welch filed an emergency motion, seeking to stay the pending April 2014 foreclosure sale of her primary residence.

Pursuant to Court of Appeals Rule 40 (b), this Court has inherent authority to issue emergency orders "as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot." Accordingly, Welch's motion is hereby GRANTED, and the pending foreclosure sale of Welch's property is hereby stayed pending the resolution of Welch's appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/04/2014

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, March 14, 2014

The Court of Appeals hereby passes the following order:

A14E0017. CYNTHIA WELCH v. SUNTRUST MORTGAGE, INC.

On March 4, 2014, this Court granted Appellant's emergency motion to stay the pending foreclosure sale of her primary resident pending the resolution of her docketed appeal (A14A1186). Appellee has now filed a motion for reconsideration or, in the alternative for supersedeas bond.

Court of Appeals Rule 40 provides that: "[u]pon motion by the appellee, made in the trial court before or after the appeal is docketed in the appellate court, the trial court may require supersedeas bond to be given with such surety and in such amount as the trial court may require." Accordingly, Appellee's motion asking this Court for reconsideration or, in the alternative for supersedeas bond, is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/14/2014

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

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

Stephen E. Caston

, Clerk.

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

ATLANTA, March 05, 2014

The Court of Appeals hereby passes the following order:

A14E0018. GRIFFITH v. GRIFFITH.

Upon consideration of Sean Griffith's motion for an extension of time to file an application for discretionary appeal, said motion is hereby GRANTED. Sean Griffith shall have until March 17, 2014 to file his discretionary application.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/05/2014

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

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

Stephen E. Castle

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, March 18, 2014

The Court of Appeals hereby passes the following order:

**A14E0019. RICHARD C. STANLEY v. THE BANK OF NEW YORK MELLON
f/k/a THE BANK OF NEW YORK.**

It appearing the order of this Court issued March 14, 2014, is incorrect due to clerical error, it is hereby ordered that the order attached hereto be substituted for the original order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/18/2014

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

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

Stephen E. Costen

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, March 14, 2014

The Court of Appeals hereby passes the following order:

**A14E0019. RICHARD C. STANLEY v. THE BANK OF NEW YORK
MELLON f/k/a THE BANK OF NEW YORK.**

Appellant has filed an emergency motion seeking to stay a writ of possession, which was issued on September 4, 2011. In order to challenge the writ of possession, Appellant was required to file a notice of appeal within seven days of the writ's entry. See *Fritz v. Shadwich*, 3212 Ga. App. 906, 907 (720 SE2d 361) (2011). Accordingly, appellant's motion for a stay is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/14/2014

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

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

Stephen E. Costello

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, April 03, 2014

The Court of Appeals hereby passes the following order:

A14E0020. FORDHAM v. DEPARTMENT OF HUMAN RESOURCES.

On April 2, 2014, David Fordham filed a motion for an extension of time to file an application for discretionary appeal from the order of the Superior Court of DeKalb County entered March 4, 2014, that denied his motion for reconsideration of the trial court's earlier order denying his motion to set aside a default judgment. See OCGA. See *Gable v. State*, 290 Ga. 81, 85 (2) (a) (720 SE2d 170) (2011) (An appellate court has the authority to grant an extension of the time to file a discretionary application, pursuant to OCGA § 5-6-39 (a) (5), where the application for an extension is made before the expiration of the period for filing as originally prescribed.); *In the interest of S. M. B.*, 319 Ga. App. 125, 126 (735 SE2d 122) (2012) (accord); OCGA §§ 5-6-35 (a) (8) (An appeal from the denial of a motion to set aside shall be by application for a discretionary appeal.); 5-6-39 (d) (An application for discretionary appeal must be filed "within 30 days of the entry of the order, decision, or judgment complained of[.]").

In support of his request, Fordham states that the transcript, presumably of the hearing on his motion for reconsideration, is not ready due to a misunderstanding concerning the request for preparation. Upon consideration of Fordham's request for an extension of time to file his application for a discretionary appeal, the same is hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/03/2014

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, April 15, 2014

The Court of Appeals hereby passes the following order

**A14E0020. DAVID TYRONE FORDHAM v. GEORGIA DEPARTMENT OF HUMAN
RESOURCES EX. REL. TIA ROCHELLE COOK.**

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 15, 2014.*

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

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

Stephen E. Castles, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, April 11, 2014

The Court of Appeals hereby passes the following order:

A14E0022. BARROW v. COMMISSIONER OF GEORGIA DEPARTMENT OF DRIVER SERVICES.

On April 11, 2014, Abdou Barrow filed a motion for an extension of time to file an application for discretionary appeal from a dismissal order entered by the Superior Court of Fulton County on March 18, 2014. Barrow acknowledges that his application would be due in this Court on April 17, 2014.

An appellate court has the authority to grant an extension of the time to file a discretionary application, pursuant to OCGA § 5-6-39 (a) (5), where the application for an extension is made before the expiration of the period for filing as originally prescribed. See *Gable v. State*, 290 Ga. 81, 85 (2) (a) (720 SE2d 170) (2011); *In the interest of S. M. B.*, 319 Ga. App. 125, 126 (735 SE2d 122) (2012) (accord); OCGA §§ 5-6-35 (a) (8) (An appeal from the denial of a motion to set aside shall be by application for a discretionary appeal.); 5-6-39 (d) (An application for discretionary appeal must be filed “within 30 days of the entry of the order, decision, or judgment complained of[.]”).

In support of his request, Barrow states that an extension is needed to allow new appellate counsel to become familiar with the “unusually complex” matters involved in this case, a case concerning the cancellation of a driver’s license. Based upon our review of the order, we discern no basis for such an extension. Therefore, Barrow’s request for an extension of time to file his application for a discretionary appeal is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/11/2014*

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

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

Stephen E. Caston _____, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, April 21, 2014

The Court of Appeals hereby passes the following order:

A14E0023. ROBERSON v. THE STATE.

In February 2013, the Superior Court of Columbia County granted Willis F. Roberson bond on charges of aggravated stalking and distributing obscene materials. On March 28, 2014, the court ruled that Roberson had violated the provisions of his bond and, as a result, revoked his bond and incarcerated him. Roberson has filed an emergency motion asking this Court to grant supersedeas so that he may be released from jail.

Roberson, however, has not filed an application for discretionary or interlocutory review of his bond revocation in this Court. Thus, there is no pending case over which this Court has jurisdiction that would provide a basis for granting supersedeas.¹ See Court of Appeals Rules 40 (a) (“The filing of an application for discretionary appeal shall act as a supersedeas to the extent that a notice of appeal shall act as a supersedeas. See OCGA § 5-6-35 (h).”); 40 (b) (“Generally, no [emergency] order shall be made or direction given in an appeal until [the appeal] has been docketed in this Court.”).

Accordingly, this motion is DENIED.

¹ To the extent Roberson relies on motions he filed in the trial court in his divorce case as a basis for the grant of supersedeas by this Court, such reliance is unavailing, because the divorce case is a civil case that is separate from the criminal bond revocation proceeding at issue in this motion.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/21/2014*

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

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

Stephen E. Castles _____, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, May 07, 2014

The Court of Appeals hereby passes the following order:

A14E0025. CHAN et al. v. FEDERAL HOME LOAN MORTGAGE CORPORATION et al.

Kwok C. Chan, as trustee for the Tom Chan Trust a/k/a The Kwok C. Chan Trust, has filed an "Emergency Motion for Supersedeas Staying Non-judicial Foreclosure Pending Appeal," pursuant to Court of Appeals Rule 40 (b). The motion has been considered and is hereby **DENIED**.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/07/2014

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, May 30, 2014

The Court of Appeals hereby passes the following order:

A14E0026. CHATMAN v. HANCOCK COUNTY SCHOOL DISTRICT et al.

The Motion and Request for Extension of Time to File a Notice of Appeal, Briefs and Applications Pursuant to OCGA § 5-6-39, Court Rule 5, and Rule 40 (b), filed by Appellant Stephaine Chatman has been considered and is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/30/2014*

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 05, 2014

The Court of Appeals hereby passes the following order:

**A14E0027. JAMES WALLEN SNUGGS SR. v. JOHN MASON SNUGGS SR.,
AND MARY MARGARET OLIVER, AS TEMPORARY
ADMINISTRATOR.**

The Appellant has filed an Emergency Motion requesting an extension of time to file an application for discretionary appeal. The Motion is hereby GRANTED. The Appellant shall file the application for discretionary appeal by June 16, 2014.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/05/2014

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

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

Stephen E. Costello, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 13, 2014

The Court of Appeals hereby passes the following order:

A14E0028. In the Interest of R.E., M.C., L.P., and J.P.

The Applicant has timely moved for an extension of time to file her application for discretionary appeal. The motion is hereby GRANTED. See OCGA § 5-6-39 (a) (5); Court of Appeals Rule 31 (g). The Applicant shall file her application by June 24, 2014.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/13/2014

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

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

Stephen E. Costello, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 16, 2014

The Court of Appeals hereby passes the following order:

A14E0029. ROY MUNN v. MANDARIN HOUSE II AND SHUOJUN ZHAO.

The Applicant has timely moved for an extension of time to file his application for discretionary appeal. The motion is hereby GRANTED. See OCGA § 5-6-39(a) (5); Court of Appeals Rule 31 (g). The Applicant shall file his application by July 11, 2014.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/16/2014

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the minutes of the Court of Appeals of Georgia.*

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

Stephen E. Costello

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 20, 2014

The Court of Appeals hereby passes the following order:

A14E0030. HOWARD v. THE STATE.

Ernest Howard, Sr., has filed an “emergency motion to resubmit his application for discretionary appeal.” Howard, who was previously convicted of aggravated assault, kidnapping with bodily injury, and rape, filed an extraordinary motion for new trial. On April 1, 2014, the trial court entered an order denying the motion. Howard, who is incarcerated, contends that on April 24, 2014, he mailed to this Court an application for discretionary appeal, as well as a motion to proceed in forma pauperis and a motion to extend the time for him to file supporting documents.¹ This Court never received the initial application. Howard filed a second motion for extension of time, but this Court returned it to him, explaining that there was no pending appeal. Howard subsequently filed an “amendment” to his application for discretionary appeal, but that was also returned to him because there was no pending application in his name in the Court. Howard has now filed an emergency motion seeking permission to resubmit his application for discretionary appeal.

Court of Appeals Rule 4 (d), addressing filings by pro se prisoners, provides: In the absence of an official United States Postal Service postmark showing a date on or before the filing deadline, a document submitted by a prisoner who is not represented by an attorney shall be deemed filed on the date the prisoner delivers the document to prison officials

¹ Howard has attached to his emergency motion a copy of his approved request for indigent postage, which indicates that legal postage was used to send documents to this Court on April 24, 2014.

for forwarding to the Clerk of the Court of Appeals. Such delivery shall be shown by the date on the certificate of service or on an affidavit submitted by the prisoner with the document stating the date on which the prisoner gave the document to prison officials with sufficient prepaid postage for first-class mail and the name of the prison official to whom the document was delivered. Such certificate or affidavit will give rise to a presumption that the date of filing reflected in the affidavit is accurate, but the State may rebut the presumption with evidence that the document was given to prison officials after the filing deadline or with insufficient postage. If the institution has a system designed for legal mail, the prisoner must use it to rely upon the provisions of this paragraph.

Here, although Howard has produced a copy of his approved request for indigent postage, he has not filed an affidavit as required by Rule 4 (d). Therefore, his emergency motion is hereby DENIED. This order does not, however, preclude Howard from filing a subsequent pleading demonstrating the timeliness of his initial application for discretionary application under the proceedings set forth in Rule 4 (d).



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/20/2014*

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 20, 2014

The Court of Appeals hereby passes the following order:

A14E0031. LUE v. EADY et al.

Mary Ann Whipple Lue has filed an Emergency Motion for Supersedeas pursuant to Court of Appeals Rule 40 (b). Her motion is predicated in part on this Court's failure to accept an appeal she filed after timely filing a notice of appeal, completing the record, and paying costs. Upon consideration of the emergency motion, the Court's failure to accept this case for filing was in error.

The Clerk of the Superior Court of Wilkinson County is directed to transmit the record to this Court instantler. The emergency motion his hereby GRANTED, and no proceedings on the merits, including the June 24 hearing on the temporary restraining order, shall be held in the superior court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/20/2014

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 02, 2014

The Court of Appeals hereby passes the following order:

A14E0031. LUE v. EADY et al.

The appellees in this case have filed a motion for reconsideration of our June 20, 2014 order granting the appellant's motion for an emergency motion. Having considered the motion for reconsideration, it is hereby DENIED.

The appellees seek clarification of our previous order, which stated that "no proceedings on the merits, including the June 24 hearing on the temporary restraining order, shall be held in the superior court." As the Supreme Court of Georgia has held, "[p]ursuant to [OCGA § 5-6-45], a notice of appeal, with payment of costs, serves as a supersedeas of the judgment (unless supersedeas bond be required), and while on appeal, the trial court is without authority to modify such judgment. But *the notice of appeal supersedes only the judgment appealed; it does not deprive the trial court of jurisdiction as to other matters in the same case not affecting the judgment on appeal.*"¹



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/02/2014

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

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

Stephen E. Costen, Clerk.

¹ (Punctuation and citation omitted; emphasis supplied.) *Cohran v. Carlin*, 249 Ga. 510, 512 (291 SE2d 538) (1982).

Court of Appeals of the State of Georgia

ATLANTA, July 07, 2014

The Court of Appeals hereby passes the following order:

A14E0032. DOMENICONE v. DOMENICONE.

Kendal Megan Domenicone has filed an emergency motion for supersedeas.¹ She requests that this Court stay the trial court's order that she testify at a July 8, 2014 deposition "in a case in which criminal (and civil) contempt charges are being brought against her," arguing that she cannot be compelled to testify against herself in this action.

The attached record indeed reflects that Michael S. Domenicone has filed a petition for criminal and civil contempt related to alleged violations of a November 2013 Final Order on Custody, Visitation, and Child Support with Permanent Parenting Plan; that he noticed Kendal Domenicone for a deposition; that she filed a motion to quash and refused to attend; that he filed a motion to compel her attendance; and that the trial court granted the motion to compel and denied the motion to quash. However, the trial court noted that Kendal Domenicone must appear "for her deposition that may be considered for purposes as to civil contempt only, and not criminal contempt."

Accordingly, while it is true that "for criminal contempt the defendant . . .

¹ See 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 shall be exercised sparingly. . . .").

cannot be compelled to testify against himself,”² there is no such rule as to civil contempt,³ and the trial court’s order makes explicitly clear that the deposition testimony may *not* be considered for purposes of criminal contempt.⁴ Accordingly, Kendal Domenicone’s motion is hereby **DENIED**.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/07/2014

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

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

Stephen E. Carlson

, Clerk.

² *Carlson v. Carlson*, 324 Ga. App. 214, 216 (1) (748 SE2d 304) (2013) (quoting *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418, 444 (31 SCt 492, 55 LE2d 797) (1911)).

³ *See Gompers*, 221 U.S. at 444 (“*Without deciding what may be the rule in civil contempt*, it is certain that in proceedings for criminal contempt the defendant is presumed to be innocent, he must be proved to be guilty beyond a reasonable doubt, and cannot be compelled to testify against himself.” (emphasis supplied)).

⁴ *See Carlson*, 324 Ga. App. at 216 (1) (“Georgia law recognizes a distinction between ‘civil’ or ‘criminal’ contempt, although acts of contempt are neither civil nor criminal. . . . The distinction between the two is that criminal contempt imposes unconditional punishment for prior acts of contumacy, whereas civil contempt imposes conditional punishment as a means of coercing future compliance with a prior court order.” (punctuation omitted)).

Court of Appeals of the State of Georgia

ATLANTA, July 08, 2014

The Court of Appeals hereby passes the following order:

A14E0033. MATTHEWS v. THE STATE.

On June 3, 2014, the Glynn County Superior Court issued three orders revoking appellant's probation. Thus, pursuant to OCGA § 5-6-35, appellant was required to file an application for discretionary appeal by July 3, 2014. However, appellant failed to meet this deadline and did not move this Court for an extension of time to file until July 7, 2014. The Supreme Court of Georgia has recently held that even appellate courts "have no authority to create equitable exceptions to jurisdictional requirements imposed by statute." *Gable v. State*, 290 Ga. 81, 85 (720 SE2d 170) (2011). Accordingly, appellant's motion for an extension of time in which to file his discretionary application is DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/08/2014

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

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

Stephen E. Castles, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 15, 2014

The Court of Appeals hereby passes the following order:

A14E0034. ALLISON N. MARKS v. LILTON J. MARKS, JR.

Allison N. Marks filed this motion seeking an extension of time in which to file an application for discretionary appeal from the trial court's order denying her motion to set aside or amend a settlement agreement. It appears from the material submitted, however, that the settlement agreement was incorporated into the parties' divorce decree. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6). Because the order that Marks seeks to appeal appears to be ancillary to the divorce action, the Supreme Court has jurisdiction over the application. See *Evers v. Evers*, 277 Ga. 132 (587 SE2d 22) (2003). Under these circumstances, this motion for an extension of time is hereby TRANSFERRED to the Supreme Court for disposition.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/15/2014

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the minutes of the Court of Appeals of Georgia.*

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 17, 2014

The Court of Appeals hereby passes the following order:

A14E0035. In the Interest of A. N. T. et al.

The Applicant has timely moved for an extension of time to file her application for discretionary appeal. The motion is hereby GRANTED. *See* OCGA § 5-6-39 (a) (5); Court of Appeals Rule 31 (g). The Applicant shall file her application by August 18, 2014.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/17/2014

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

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

Stephen E. Carlton

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 30, 2014

The Court of Appeals hereby passes the following order:

A14E0036. ZAREM v. SOUTHCOAST PROPERTIES, LLC.

The Applicant has timely moved for an extension of time to file her application for discretionary appeal. The motion is hereby GRANTED. See OCGA § 5-6-39 (a) (5). The Applicant shall file her application by August 4, 2014.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/30/2014*

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

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

Stephen E. Costen, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, August 11, 2014

The Court of Appeals hereby passes the following order:

A14E0037. ANISA, INC. v. CITY OF DALLAS, GEORGIA et al.

After the Municipal Court of the City of Dallas found that Anisa, Inc.'s property constituted a nuisance, Anisa appealed to the Superior Court of Paulding County. On July 9, 2014, the superior court likewise found that the property constituted a nuisance and ordered Anisa to demolish the buildings or bring them into compliance with all codes of the City of Dallas within 30 days from the court order. On August 8, 2014, Anisa filed this emergency motion seeking an extension of time in which to file an application for discretionary appeal from the superior court's order. Because Anisa's request for an extension is timely under Court of Appeals Rule 31 (g), it is hereby GRANTED. Anisa shall be given an extension of thirty (30) days in which to file its application for discretionary appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/11/2014

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

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

Stephen E. Castle, Clerk.

**COURT OF APPEALS OF GEORGIA
EMERGENCY MOTIONS**

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	Paper copies of emergency motions have ceased. All emergency motions may be viewed on the Court of Appeals docket.	

Court of Appeals of the State of Georgia

ATLANTA, August 25, 2014

The Court of Appeals hereby passes the following order:

A15E0001. ROOSEVELT WOODS v. THE STATE.

The Appellant's Motion For Extension Of Time To File Application for Discretionary Appeal in the above-styled cases is hereby GRANTED until September 23, 2014.

Should Appellee choose to file a response, said response shall be due no later than 10 days after Appellant's application is filed.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/25/2014*

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, August 25, 2014

The Court of Appeals hereby passes the following order:

A15E0002. IN THE INTEREST OF A.L.R. AND R.L.R., CHILDREN.

The Appellant Scelia Robinson's Motion For A Thirty (30) Day Extension In Which To File Her Application For Discretionary Appeal in the above-styled case is hereby GRANTED until September 29, 2014.

Should Appellee choose to file a response, said response shall be due no later than 10 days after Appellant's application is filed.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/25/2014

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Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 09, 2014

The Court of Appeals hereby passes the following order:

A15E0003. IN THE INTEREST OF A.S.E.

The parents of A. S. E. have filed an emergency motion pursuant to Court of Appeals Rule 40 (b) for an extension of time to file an application for leave to appeal from an order terminating their parental rights. See OCGA § 5-6-35 (a) (12); OCGA § 5-6-39 (a) (5); *Gable v. State*, 290 Ga. 81, 84 (2) (a) (720 SE2d 170) (2011).

Counsel represents that former counsel for the parents changed employment and moved to a different city, requiring additional time for newly appointed counsel to collect the necessary materials and prepare an application for leave to appeal.

After reviewing the pleadings and the documents provided by the movants, the motion is GRANTED and the movants are granted an additional 30 days to file an application for leave to appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/09/2014

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 17, 2014

The Court of Appeals hereby passes the following order:

A15E0004. THE STATE v. BROWN et al.

The State has filed an emergency motion pursuant to Court of Appeals Rule 40 (b), seeking to stay the trial of this matter until resolution of its appeal from the trial court's grant of the defendants' motion to suppress. The trial court also entered an order finding the State's appeal to be invalid because, although a stamped "filed" copy appears in the record before us, the court did not receive the State's certification that the appeal was not taken for purposes of delay. See OCGA § 5-7-1 (a) (5) (B).

Because a stay is required to prevent a contested issue from becoming moot, the State's emergency motion is hereby GRANTED and the trial of this matter is STAYED pending disposition of the appeal.

Additionally, all parties are hereby ordered to brief the issues raised by the trial court's "Order on Objection to State's Appeal."



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, GA, 09/17/2014

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the minutes of the Court of Appeals of Georgia.*

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Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 30, 2014

The Court of Appeals hereby passes the following order:

A15E0004. STATE v. BROWN et al.

Defendant Kevin Rouse's emergency motion to modify this court's September 18, 2014 order staying all proceedings in this matter is hereby GRANTED. Pursuant to OCGA § 5-7-5, "[i]n the event the state files an appeal as authorized in this chapter, the accused shall be entitled to be released on reasonable bail pending the disposition of the appeal, except in those cases punishable by death. The amount of the bail, to be set by the court, shall be reviewable on direct application by the court to which the appeal is taken." The stay is therefore lifted only with regard to the issue of bail. The remainder of this court's order remains in full effect.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/30/2014

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 18, 2014

The Court of Appeals hereby passes the following order:

A15E0005. THE STATE v. BROWN et al.

The State has filed an emergency motion seeking an order from this court that the trial court “was without jurisdiction to hold a trial in this case while the State’s Notice of Appeal was pending, that the trial court’s ‘Final Order of Acquittal as to All Defendants’ is thus void for lack of jurisdiction, and that the State’s Notice of Appeal divested the trial court of jurisdiction in this case.” But consideration of the merits of these issues will be decided in due course upon the completion of the appellate record and the submission of briefs by the parties. The relief sought in the State’s emergency motion of September, 18, 2014, is therefore DENIED.

However, in the exercise of this court’s inherent power pursuant to Rule 40 (b), it is hereby ordered that ALL proceedings in the above-styled action be STAYED pending disposition of the State’s appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, GA, 09/18/2014

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Stephen E. Carlton

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 23, 2014

The Court of Appeals hereby passes the following order:

A15E0006. HARVEY v. THE STATE.

By order dated August 20, 2014, the trial court denied Harvey's "Motion to Reconsider/Motion to Set Aside an Order." On September 22, 2014, Harvey filed a motion requesting an extension of time in which to file an application for discretionary appeal from this order. In *Gable v. State*, 290 Ga. 81 (720 SE2d 170) (2011), the Supreme Court concluded that, under OCGA § 5-6-39, an applicant may petition an appellate court for an extension of time in which to file an application for discretionary appeal. *Id.* at 85 (2) (a). Court of Appeals Rule 31 (g), however, provides that "[n]o extensions of time shall be granted in filing a discretionary application unless the motion for extension is filed on or before of the due date of the discretionary application." If an extension of time request is filed after the application due date, this court lacks authority to grant the request. *Gable*, 290 Ga. at 84.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. Harvey's application for discretionary appeal was due on September 19, 2014. Harvey filed his motion for an extension on September 22, 2014, three days after his application was due. Accordingly, his motion for an extension of time in which to file an application for discretionary appeal is hereby DENIED.¹

¹ We express no opinion in this order about viability of Harvey's notice of direct appeal filed on September 5, 2014.

Court of Appeals of the State of Georgia

ATLANTA, October 15, 2014

The Court of Appeals hereby passes the following order:

A15E0008. GERALD PITTS v. STATE OF GEORGIA.

Appellant's Motion for Extension of Time to File Discretionary Application for Appeal is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/15/2014

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, October 28, 2014

The Court of Appeals hereby passes the following order:

A15E0009. BARTON LEE COLEMAN v. THE STATE.

It is hereby ORDERED that Barton Lee Coleman's Petition for Supersedeas Bond is hereby DENIED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/28/2014*

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, November 13, 2014

The Court of Appeals hereby passes the following order:

A15E0010. McKNIGHT v. SIMMONS.

Chanda Leigh McKnight has filed a “Motion for Emergency/Immediate Supersedeas.” According to the motion and the exhibits attached thereto, in this matter concerning legitimation and custody of a four-year-old child, the trial court entered an order on July 30, 2014 concerning McKnight’s counsel. McKnight sought interlocutory review of the July 30 order by obtaining a certificate of immediate review on August 4 and applying for interlocutory appeal, which was docketed in this Court on October 6. This Court granted the application on October 9.

In the meantime, on September 29, 2014, the trial court scheduled a hearing for November 13, 2014 at 3:00 p.m. to address the issues of temporary custody, temporary support and temporary parenting time, as well as a motion for appointment of a guardian ad litem. Nevertheless, McKnight waited for more than one month after this Court granted her application, until the eve of the long-scheduled hearing, before seeking an emergency supersedeas in this Court in an attempt to stop the scheduled hearing.

The issues of temporary custody and support are interim, not final or permanent, in nature and are “intended to create an interim arrangement that serves the best interests of the child pending adjudication of the rights of the mother and father”; for this reason evidence from temporary hearings is not generally admissible in final custody determinations. *Pace v. Pace*, 287 Ga. 899, 900 (700 SE2d 571) (2010) (addressing temporary custody). And a guardian ad litem is the protector of a child’s best interests. *In re W.L.H.*, 292 Ga. 521, 524 (739 SE2d 322) (2013).

The emergency relief sought by McKnight would necessarily delay the trial

court's ability to address even these temporary matters that concern the best interests of the child. See *Blackmore v. Blackmore*, 311 Ga. App. 885, 887 (717 SE2d 504) (2011) (trial court has broad authority to decide matters of the supersedeas effect on custody and visitation rulings pending appeal); *Frazier v. Frazier*, 280 Ga. 687, 691 (5) (631 SE2d 666) (2006); *Shepherd v. Shepherd*, 233 Ga. 228 (210 SE2d 731) (1974). See also OCGA § 5-6-35 (k) (in appeals of judgments or orders granting nonmonetary relief in a child custody case, the judgment or order on appeal "shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order"). Also, the rules of this Court provide that in addressing emergency motions, we "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." Rule 40 (b). Allowing the trial court to address the temporary matters referred to herein will not affect this Court's jurisdiction of McKnight's appeal nor render the issue raised therein moot.

For the above reasons, McKnight's motion for emergency supersedeas is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/13/2014

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

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

Stephen E. Castle, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, November 26, 2014

The Court of Appeals hereby passes the following order:

A15E0011. BARTON LEE COLEMAN v. THE STATE.

It is hereby ORDERED that Barton Lee Coleman's Petition for Supersedeas Bond filed on November 24, 2014 is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/26/2014

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

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

Stephen E. Carlton, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, December 02, 2014

The Court of Appeals hereby passes the following order:

A15E0013. KEITA v. SCARBROUGH

Upon consideration of Applicant Margaret Keita's Motion for Extension of Time to File Application for Discretionary Appeal, the motion is hereby GRANTED. Applicant shall have until 4:30 p.m. on December 5, 2014 to file an application for discretionary appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/02/2014

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

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

Stephen E. Castle

, Clerk.