

Court of Appeals of the State of Georgia

ATLANTA, March 1, 2010

The Court of Appeals hereby passes the following order:

A10A0460. MAGA LYNN GOSWICK HIX v. KEERY HIX.

This Court has received notice that Appellee, Kerry Hix, has filed a petition for bankruptcy. 11 U.S.C. § 362 (a) (1) provides for an automatic stay,¹ but the appellate courts in this State are constitutionally required to dispose of every case at the term of court for which it is entered on the court's docket for hearing or at the next term of court.² Accordingly, the court does not have the power to stay a case in this court.

Therefore, it is hereby ordered that this case be REMANDED to the trial court until the stay of proceedings under the Bankruptcy Act is lifted. At that time, either party may re-institute the appeal by filing a new Notice of Appeal in the trial court within 30 days of the date of the entry of the order in the bankruptcy court lifting the stay.

¹See Harkleroad & Hermance, P.C. v. Stringer, 220 Ga. App. 906, 907 (1) (472 SE2d 308) (1996).

²1983 Ga. Const., Art. VI, Sec. IX, Para. II.

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Clerk's Office, Atlanta MAR 1 2010

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

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

Willi Z. Mart  , Clerk.

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

ATLANTA,



PROPOSED ORDER (A10A0460.ORDER) February 25, 2010	
AGREE	DISAGREE
 	

The Court of Appeals hereby passes the following order:

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This Court has received notice that Appellee, Kerry Hix, has filed a petition for bankruptcy. 11 U.S.C. § 362 (a) (1) provides for an automatic stay,¹ but the appellate courts in this State are constitutionally required to dispose of every case at the term of court for which it is entered on the court's docket for hearing or at the next term of court.² Accordingly, the court does not have the power to stay a case in this court.

Therefore, it is hereby ordered that this case be REMANDED to the trial court until the stay of proceedings under the Bankruptcy Act is lifted. At that time, either party may re-institute the appeal by filing a new Notice of Appeal in the trial court within 30 days of the date of the entry of the order in the bankruptcy court lifting the stay.

¹See *Harkleroad & Hermance, P.C. v. Stringer*, 220 Ga. App. 906, 907 (1) (472 SE2d 308) (1996).

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