

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

*order not sent -
appeal dismissed under
§ 5-6-35*

ATLANTA,

The Court of Appeals hereby passes the following order:

A04A1104. EDWARD C. MORGAN, ET AL. v. CITY OF DOUGLASVILLE, ET AL.

The above appeal was filed in the Supreme Court of Georgia and transferred to the Court of Appeals. This appeal was docketed in the Court of Appeals on February 2, 2004 and on February 4, 2004, this Court received a letter from the attorney for the appellants informing this Court that he is a member of the Georgia General Assembly and was invoking the privileges of OCGA §9-10-150. This statute provides a continuance of 21 days following any recess or adjournment, including adjournment *sine die*, of any regular or extraordinary session of the Georgia General Assembly, if the party or attorney to the case is a member of the Georgia General Assembly, or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the President Pro Tempore of the House of Representatives, or the Chairperson of the Judiciary Committee or Special Judiciary Committee of either the Senate or House of Representatives.

The Court notes that appellants are represented by Mr. Glenn Richardson, the Representative from the 26th House District. It is impossible for the Court to

determine how long the current legislative session may last. The Court notes the 2003 legislative session extended into April.

OCGA §9-10-150 and its parallel cite for criminal cases, OCGA §17-8-26, has existed for years to grant continuances to Legislative members in the trial courts, but an amendment which passed in 2002 extended this privilege to appellate courts.

While this Court recognizes the intent and purpose of the statutes, the Court has concerns the legislative session may extend beyond the time that would permit the Court to have a reasonable opportunity to review the briefs and the record, to devote the requisite time and attention necessary to accurately determine the issues raised in this appeal and still comply with the Constitution of the State of Georgia, Article VI, Section IX, Para. II, which requires that the Supreme Court and Court of Appeals dispose of every case during the term in which it is entered on the Court's docket for hearing or at the next term.

Obviously, this Court is unable to address the merits of the appeal until the Court receives the Appellants' Brief with its Enumerated Errors. Therefore, in consideration of the statutory continuance granted to those persons set out in the above Code Sections, this Court hereby REMANDS the matter to the trial court until such time as the Georgia General Assembly adjourns *sine die*. At that time, the appellant shall have 30 days from the date of adjournment, *sine die*, to file a new Notice of Appeal with the clerk of Douglas Superior Court, and the clerk shall, at that time, retransmit a copy of the record to the Court of Appeals for docketing anew.

The Court regrets having to remand this case to the trial court. This Court realizes a remand causes additional work for the trial court judge, the trial court clerk, for the clerk and judges of the Court of Appeals, and for the attorneys involved. However, given the fact the Legislative Session could extend into April, or later, the constraints placed upon the Court by OCGA §9-10-150, and the Constitutional requirement to dispose of the matter within two terms, this Court feels a remand is the recourse that best addresses the circumstances placed upon the Court and the parties by the exercise of the statutory privilege.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

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

Clerk.