

12/23

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

ATLANTA, December 23, 1994

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

Motion Docket No. 196

Antonio Jermaine Gaston v. The State.

Antonio Jermaine Gaston, by counsel, has filed an emergency motion to stay warrant and emergency motion to vacate arrest warrant pursuant to Rule ^{40 (b)}~~50~~ of this Court, which permits orders in emergencies to preserve jurisdiction or to prevent the contested issue from becoming moot. He alleges, without supporting record, that his counsel formally noticed the State Court of Clayton County of a conflict in the Court of Appeals on the date for which his trial was set in Clayton County State Court.

His counsel appeared for oral argument in the Court of Appeals and the trial judge issued a bench warrant for Mr. Gaston's failure to appear at the trial court. Movant urges this Court to set aside the arrest and stay the warrant based upon his appearance for oral argument in the Court of Appeals.

Rule 24 (c) (2) (iii) of the Court of Appeals provides that appellate arguments prevail over trials, hearings and conferences. Rule 17.1 (B) (3) of the Uniform Superior Court and State Court Rules provides that trials shall prevail over appellate arguments, hearings and conferences. The Court of Appeals respects the

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autonomy of the Superior Court and State Courts to set rules for the conduct and administration of case management in their courts and reserves the autonomy to administer the cases in its court. Rule 8 (a) (1) of the Court of Appeals provides that oral argument is never mandatory unless expressly ordered by the Court.

The Court recognizes the obligation of movant's counsel in representing another client before the Court of Appeals. However, this would not have prevented movant from appearing before the Clayton County State Court at the time announced for his trial. An appearance by the movant would have avoided the issuance of a bench warrant and his arrest under the bench warrant. This Court cannot conceive that the State Court trial judge would have ordered movant to proceed with trial prior to movant's attorney arriving in the Court.

Therefore, this motion is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

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

Clerk.