

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

ATLANTA, SEPTEMBER 06, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0001
E. RAY BLACK ET AL V. ANDREW DANIEL ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94001

00CV094HS

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 06 2001

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

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

Will Z. Martin, Jr. Clerk.

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

ATLANTA,

SEPTEMBER 12, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0002

MUSTAPHA KONE V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95001

009334834

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 12 2001

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

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

Clerk.

A handwritten signature in black ink, appearing to read "W. Z. Martin". The signature is written in a cursive style and is positioned above a faint, illegible stamp or seal.

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

ATLANTA, SEPTEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0003
CAROL PENLAND V. COBB COUNTY BOARD OF EDUCATION

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96001

001528733

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 13 2001

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Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 27 2001**

A02D0004. DAVID B. TUCKER v. JOE D. RAWLINGS, M.D.

David B. Tucker filed this discretionary application to appeal the order dismissing some, but not all, of his claims against Joe D. Rawlings, M.D. Because the order complained of did not dispose of all issues in the case, Tucker was obligated to comply with the additional requirements of the interlocutory appeal procedure, OCGA § 5-6-34 (b). *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Because Tucker failed to follow the proper procedure here, his application is hereby *dismissed* as premature.

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

AUG 27 2001

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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.*

W. Z. Martin, Jr. , Clerk.

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

ATLANTA,

SEPTEMBER 17, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0005

BART JACKSON V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97001

98CR115

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 17 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, SEPTEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0006
SIDNEY K. SMITH, SR. ET AL V. FIRE ROCK INDUSTRIES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70001

2001CV37754

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 13 2001

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Clerk.

Will. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 13 2001**

A02D0007. DONNA MARIE SMITH v. CATHY COX ET AL.

This discretionary application seeks appellate review of a superior court order denying Donna Marie Smith's request for indigent status. Smith filed a notice of appeal and also filed an affidavit of indigence seeking relief from her obligation to pay the costs associated with the appeal. OCGA § 9-15-2 (a) (1). The superior court set a hearing to inquire into the facts upon which the affidavit of indigence was based. OCGA § 9-15-2 (b). At the hearing, Smith chose to stand solely on her affidavit and refused to take an oath, offer further testimony, or answer any questions regarding her current financial status. Based on this conduct, the superior court made a factual presumption adverse to Smith pursuant to OCGA § 24-4-22, and denied Smith's request for indigent status.

The superior court's order is necessarily predicated on a factual finding that Smith has failed to demonstrate her inability to pay costs. The superior court's ruling on all issues of fact concerning the ability of a party to pay costs is final and not subject to review. OCGA § 9-15-2 (a) (2); *D'zesati v. Poole*, 174 Ga. App. 142, 143 (329 SE2d 280) (1985). Therefore, Smith's application is DISMISSED.

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

SEP 13 2001

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W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 12 2001**

A02D0008. Brown v. Brown

Michael J. Brown filed this application for discretionary appeal seeking review of the trial court's order denying his motion for reconsideration and motion to set aside a decision of the trial court requiring him to provide a hair sampling for drug testing. Generally, the denial of a motion to set aside a judgment requires the discretionary appeal procedures. OCGA § 5-6-35 (a) (8). However, because issues remain pending before the trial court, no final judgment has been entered and the interlocutory appeal requirements must be met. OCGA § 5-6-34 (b). An application to appeal an interlocutory order must contain a certification of immediate review which is not present in this application. Brown's failure to comply with the interlocutory appeal requirements deprives this Court of jurisdiction to consider this appeal. Accordingly, this appeal is ordered DISMISSED.

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

SEP 12 2001

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W. Z. Martin, Jr., Clerk.

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

ATLANTA, AUGUST 24, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0009
PRIME SERVICE, INC. F/K/A PRIMECO, INC. D/B/A PRIME EQUIPMENT COMPANY
ET AL V. ANDREA WALDRON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93001

96VS0111300B 96VS0111299B 96VS0111301B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 24 2001**

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

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

W. Z. Marti, Jr. Clerk.

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

ATLANTA, AUGUST 24, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0010
PRIME SERVICE, INC. F/K/A PRIMECO, INC. D/B/A PRIME EQUIPMENT COMPANY
ET AL V. RICHARD SMITH

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93002

96VS0111301B 96VS0111300B 96VS0111299B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 2001

*I certify that the above is a true extract from
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hereto affixed the day and year last above written.*

Clerk.

W. Z. Marti, Jr.

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

ATLANTA, AUGUST 24, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0011

PRIME SERVICE, INC. F/K/A PRIMECO, INC. D/B/A PRIME EQUIPMENT COMPANY
ET AL V. ANDREA WALDRON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93003

96VS0111299B 96VS0111300B 96VS0111301B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 2001

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Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 13 2001

A02D0012. MICHAEL COLLINS v. JEANI BAZAN

Jeani Bazan and Michael Collins entered into a temporary restraining consent order, whereby Collins was enjoined and restrained from committing any act of stalking against Bazan and was also required to pay attorney fees. Bazan subsequently petitioned to have the temporary restraining order converted to a permanent protective order and to have Collins found in contempt. The trial court granted the petition, and Collins filed a discretionary application from this order.

The order appealed from constitutes an order of contempt and a permanent injunction. Thus, it is subject to direct appeal under both OCGA §§ 5-6-34 (a) (2) and (4). Because the order appealed from is directly appealable, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j). Collins shall have 10 days from the date of this order in which to file a notice of appeal. The Clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this Court.

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

SEP 13 2001

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W. Z. Martin, Jr. Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 17 2001**

A02D0013. K. J. V. F., INC. v. MUNSON.

Defendants K. J. V. F., Inc., et al, have filed an application for discretionary appeal of an order of the state court denying a motion to Set Aside Order and Default Judgment. In their application, defendants concede that their counterclaims remain pending in the state court. The state court's Order and Default Judgment reflects on its face that it struck the defendants answer and entered default judgment without expressly striking or otherwise disposing of the defendants counterclaims. Therefore, defendants' counterclaims remain pending in the state court.

As defendants counterclaims remain pending below and as the order of the state court was not designated as a final judgment under OCGA § 9-11-55 (b), this court lacks jurisdiction over this appeal because defendants have failed to comply with the interlocutory review procedures of OCGA § 5-6-34 (b). The discretionary application statute, OCGA § 5-6-35, does not allow a party to ignore applicable interlocutory-application procedures set forth in OCGA § 5-6-34 (b) when seeking appellate review. *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996). Accordingly, this application is ordered **DISMISSED**.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 17 2001

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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.*

W. Z. Martini, Jr. , Clerk.

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

ATLANTA, SEPTEMBER 20, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0014
GWENDOLYN HARRIS V. CITIBANK SOUTH DAKOTA, N.A.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91001

01GR5744F

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 20 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, SEPTEMBER 18, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0015
ROBERT WELCH V. LARRY FAIRCHILD ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94002

0762000J1679

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 18 2001

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

*Witness my signature and the seal of said court
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Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 30 2001**

A02D0016. WEST v. THE STATE

Preston Tyrone West filed this application seeking discretionary review of the trial court's denial of his motion to set aside an allegedly void sentence. However, an appeal of the denial of a motion to set aside a void sentence is directly appealable. *Jackson v. State*, 223 Ga. App. 471 (477 SE2d 893) (1996). In fact, West has filed a direct appeal of the same order he seeks to have this Court review in this action. That appeal has been docketed as Appeal Number A01A2517. Since a grant of this application pursuant to OCGA § 5-6-35 (j) would be duplicative of A01A2517, this application for discretionary appeal is ordered DISMISSED.

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

AUG 30 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 13 2001

A02D0017. KWICKIE/FLASH FOODS, INC. v. LAKESIDE PETROLEUM

Kwickie/Flash Foods, Inc. filed this discretionary application in this contract action from an order awarding Lakeside Petroleum \$15,620.00 in principal, \$2,167.66 as interest, and \$4,680.00 in attorney's fees under OCGA § 13-6-11. Kwickie/Flash Foods only challenges the assessment of attorney fees. It first filed this application based on OCGA § 5-6-35 (a) (10), mandating that appeals from awards of attorney's fees under OCGA § 9-15-14 to be taken by discretionary application. The applicant then amended its application to state that the application was based on OCGA § 5-6-35 (a) (6), requiring appeals from judgments of \$10,000.00 or less to be taken by application for discretionary appeal. The total damages awarded in this case, however, is greater than \$10,000.00; thus, OCGA § 5-6-35 (a) (6) is inapplicable. Likewise, OCGA § 5-6-35 (a) (10) is inapplicable, because that code section only applies to appeals from attorney fees awards under OCGA § 9-15-14, not OCGA § 13-6-11. Thus, the order is subject to direct appeal under OCGA § 5-6-34 (a) (1), and is thus ordered GRANTED pursuant to OCGA § 5-6-35 (j). The applicant has 10 days from the date of this order in which to file a notice of appeal. The Clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 13 2001

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

W. Z. Martin, III, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 20 2001**

A02D0018. ROBIN DOCKERY SEABOLT v. BEAULIEU OF AMERICA, ET

AL.

Robin Dockery Seabolt has filed an application for discretionary appeal of the order of the Superior Court of Murray County, entered July 27, 2001, affirming in part the award of the Appellate Division of the State Board of Workers' Compensation. The above-captioned application is granted only as to the following issues: (1) When the award of an administrative law judge fails to discuss or rule upon a timely request of a claimant for assessed attorney fees, under OCGA § 34-9-108 (b) (1), does the appellate division have the authority to make its own findings and enter an award regarding this issue; and (2) Did the superior court err in remanding the issue of assessed attorney fees to the appellate division with instructions that the issue be remanded to the administrative law judge for clarification.

Pursuant to the authority of this court to protect and aid its appellate jurisdiction, the application for discretionary appeal is denied as to all other issues.

Ga. Const. of 1983, Art. VI, Sec. I, Par. IV.; see *Grim v. Grim*, 268 Ga. 2, 3 (2) (486 SE2d 27) (1997); *Brown v. Kinser*, 218 Ga. App. 385, 386 (461 SE2d 564) (1995); *A Southern Outdoor Promotions v. National Banner Company*, 215 Ga. App. 133 (1) (449 SE2d 684) (1994); see also *Matthews v. Riviera Equipment, Inc.*, 152 Ga. App. 870, 871 (2) (264 SE2d 318) (1980).

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

SEP 20 2001

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

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hereto affixed the day and year last above written.*

W. Z. Mathis, Jr., Clerk.

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

ATLANTA, OCTOBER 09, 2001

The Court of Appeals passed the following order:

Case No. A02D0018

ROBIN DOCKERY SEABOLT V. BEAULIEU OF AMERICA ET AL

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

90-002
01CI420

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 09 2001

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

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

Clerk.

W. Z. Marti, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 25, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0212**

ROBIN DOCKERY SEABOLT v. BEAULIEU OF AMERICA et al.

Clerk, Supreme Court of Georgia

Case No. A02D0018

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 17, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0019

SUMMERHILL NEIGHBORHOOD DEVELOPMENT CORPORATION ET AL V. BANK OF
AMERICA N.A

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97002

01GR004094B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 17 2001

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*Witness my signature and the seal of said court
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Clerk.

W. Z. Marti, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 13 2001

A02D0020. MACKEY v. THE STATE.

Abner Clark Mackey seeks an appeal from an order entered June 11, 2001. Mackey's application for discretionary appeal was filed on August 20, 2001. Because Mackey's application was not filed within 30 days after entry of the order complained of as required under OCGA § 5-6-35 (d), the application is hereby dismissed for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

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

SEP 13 2001

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William Z. Martin, III, Clerk.

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

ATLANTA, OCTOBER 4, 2001

Honorable Court of Appeals hereby passes the following order:

A02D0020. ABNER CLARK MACKEY v. THE STATE.

Upon consideration of the motion for reconsideration, it is ordered that it be hereby dismissed as untimely filed.

96CR35034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 04 2001

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minutes of the Court of Appeals of Georgia.*

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 27 2001**

A02D0021. HELEN C. HOPKINSON v. PETER S. HOPKINSON

Helen C. Hopkinson seeks an appeal from an order granting respondent Peter S. Hopkinson's OCGA § 9-15-14 motion for attorney fees and expenses of litigation. We conclude that appellate jurisdiction properly lies in the Supreme Court because the order complained of is ancillary to Hopkinson's unsuccessful attempt to hold the respondent in contempt of the divorce decree. See *Hallman v. Emory University*, 225 Ga. App. 247, 248 (483 SE2d 362) (1997) (physical precedent only); see also *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979) (holding in an analogous context that "an application for contempt to enforce the divorce decree is ancillary to, and an incident of, the divorce action, and jurisdiction to hear an appeal of this nature is in this court"); compare *Kluge v. Renn*, 226 Ga. App. 898 (487 SE2d 391) (1997) (abusive litigation action brought subsequent to underlying divorce case treated as a new action not within the divorce and alimony jurisdiction of the Supreme Court). Therefore, Hopkinson's application for appeal is hereby TRANSFERRED to the Supreme Court for disposition.

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

AUG 27 2001

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W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 14 2001

A02D0022. BART JACKSON v. THE STATE

Bart Jackson filed this application for discretionary review on August 21, 2001, from the trial court's order revoking his probation. However, Jackson filed an identical application in this Court, docketed as A02D0005, on August 17, 2001. Because this application is duplicative of A02D0005, it is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 14 2001

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W. Z. Martin, Jr., Clerk.

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

ATLANTA,

SEPTEMBER 25, 2001

The Court of Appeals hereby passes the following order: **SEP 25 2001**

APPLICATION NO. A02D0023
SIDNEY H. WRIGHT III V. RICHARD McCAULEY

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92002

99C68094

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 25 2001

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

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

Clerk.

W. Z. Martin, III

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

ATLANTA, NOVEMBER 06, 2001

The Court of Appeals hereby passes the following order:

NOV 06 2001

APPLICATION NO. A02D0024
HARVEY LYNN DAVALOS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71002

97CR17W

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 06 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk. —

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 26 2001**

A02D0025. RODGERS, et al. v. FULLER, et al.

The above styled application for appeal involves an award of attorney's fees under OCGA § 9-15-14. The applicants filed duplicate applications for appeal in this court and in the Supreme Court. The application directed to the Supreme Court was filed on August 24, 2001.¹ The above styled application was filed on August 27, 2001. Because OCGA § 5-6-35 does not authorize the filing of multiple applications in the appellate courts, Application No. A02D0025 is effectively a nullity and is hereby *dismissed*.

The respondents' motion to dismiss Application No. A02D0045, which was improperly filed as a motion related to A02D0025, is hereby *denied*.

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

SEP 26 2001

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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.*

W. Z. Martin, Jr.

, Clerk.

¹The original application filed with the Supreme Court has since been transferred to this court and docketed as Application No. A02D0045.

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

ATLANTA, SEPTEMBER 18, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0026
MICHAEL ADKINSON ET AL V. NETWORK PUBLICATIONS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94003

00G429 00G1657 00G1662

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 18 2001

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Clerk.



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

ATLANTA,

SEPTEMBER 19, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0027
RICHARD A. CLARK V. CARL A. BRYANT

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

95003

00CV22691

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

SEP 19 2001

*I certify that the above is a true extract from
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Clerk.

W. Z. Marti, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 14 2001**

A02D0028. ALVIN OLIVER v. THE STATE.

On August 29, 2001, Alvin Oliver filed an application for discretionary appeal. On September 14, 2001, this court entered an order dismissing Oliver's application for failure to timely supplement his application, as ordered, with a stamped "filed" copy of the order of the superior court sought to be appealed. On September 27, 2001, Oliver filed an untimely motion for reconsideration. On October 11, 2001, this court dismissed the motion for reconsideration as untimely by entering an order that again dismissed Oliver's discretionary application. On December 10, 2001, Oliver filed a motion captioned "Motion To Set Judgment Aside" seeking to set aside the orders dismissing his application and praying that his application be granted.

Although captioned as a motion to set aside judgment, the motion filed on December 10, 2001 is in both substance and function a motion for reconsideration of this court's original order dismissing his application. There is no magic in the nomenclature of a motion. Motions are judged by their substance and function and

not by their name. See *Cain v. Moore* 207 Ga. App. 726, 727 (2) (429 SE2d 135) (1993). Because Oliver's motion of December 10, 2001 was not filed within ten days of the entry of either of the orders of this court dismissing his application, the motion is untimely. Court of Appeals Rule 37 (b).

Oliver's motion, captioned as a motion to set aside judgment and filed December 10, 2001, is ordered DISMISSED. And, in the interest of clarity, we reaffirm our order of October 11, 2001 that in effect dismissed Oliver's motion for reconsideration, filed September 27, 2001.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 14 2001

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA,

SEPTEMBER 17, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0029
FLOYD WILSON V. CASTA DEVELOPMENT, INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90003

0032847

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 17 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

SEP 21 2001

The Court of Appeals hereby passes the following order:

**A02D0030. REX ROAD PARTNERS v. CLAYTON COUNTY
BOARD OF TAX ASSESSORS**

The above application was docketed as a discretionary application on August 28, 2001. The application was docketed as a discretionary application based upon the denomination of the attorney for the applicant that the application was in fact an application for discretionary appeal.

Upon review of the body of the application, the Court finds that contrary to the assertions of applicant's attorney, the application is in fact an interlocutory application under OCGA §5-6-34(b), and that the trial court has included the Certificate of Immediate Review within the body of the order that is being appealed, a procedure that is not in violation of the Code Section, but is certainly rare.

It appearing that discretionary application A02D0030 was incorrectly filed, it is hereby ordered that said application be and is changed to interlocutory application A02I0032, and the clerk of this Court shall docket it as such.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 21 2001

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

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

Clerk.

W. Z. Mathis, Jr.

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

ATLANTA, SEPTEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0031
WARE CORRECTIONAL INSTITUTE ET AL V. LARRY MULLIS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70003

01V0431 260-64-8345

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **SEP 13 2001**

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

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

W. Z. Martin, Jr. Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Paid Date: September 14, 2001

Received of GEORGIA COURT OF APPEALS,
costs in the amount of \$80.00 in Case No. S01D1874:

J. KENNETH DURHAM v. MARY ANN DURHAM

A02D0032

Sherie M. Welch, Clerk

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

ATLANTA, OCTOBER 12, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0033

UNITED AMERICAN INSURANCE COMPANY V. INSURANCE DEPARTMENT OF THE STATE
OF GEORGIA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99003

2001CV34127

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 12 2001

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

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

Clerk.

W. Z. Martin, Jr.



SUPREME COURT OF GEORGIA
Case No. S02D0021.

Atlanta **OCT 09 2001**

The Honorable Supreme Court met pursuant to adjournment.

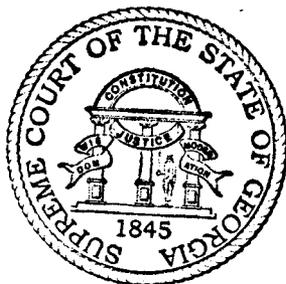
The following order was passed:

UNITED AMERICAN INSURANCE COMPANY
v. GEORGIA DEPARTMENT OF INSURANCE et al.

From the Superior Court of Fulton County.

The C/A transferred to this Court appellant's appeal from the superior court's affirmation of the Commissioner of Insurance's ruling requiring that the "use of interest" be included in calculating loss ratio in rate increase filings. The Court of Appeals found that appellant raised, and the Commissioner and superior court ruled on, the issue of whether the ruling violated the prohibition against the retroactive application of laws. The Court of Appeals held this was an issue of first impression and that this Court has exclusive jurisdiction over cases involving the construction of the constitutions of Georgia and the United States and all cases where the constitutionality of a law has been drawn into question. See Art. VI, Sec. VI, Par. II (1) of Ga. Const. of 1983. Finding this to be such a case, the Court of Appeals transferred the appeal to this Court. But this Court previously has held that rulings of a State Revenue Commissioner are not laws of the State of Georgia within the meaning of the Supreme Court's constitutional question jurisdiction, see Brosnan v. Undercofler, 220 Ga. 239 (138 SE2d 314) (1964). See also Georgia Bd. of Dentistry v. Pence, 223 Ga. App. 603, 604 (1) (478 SE2d 437) (1996) (Supreme Court's constitutional question jurisdiction "does not extend to questions of constitutionality of an administrative regulation"). Accordingly, the appeal does not fall within this Court's exclusive jurisdiction and hereby is returned to the Court of Appeals.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta



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

 , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 13 2001**

A02D0034. DAVID F. JOHNSON v. WILLIAM ALLEN ET AL.

David F. Johnson seeks appellate review of a superior court order entered July 24, 2001, denying the filing of his lawsuit pursuant to OCGA § 9-15-2 (d). An application for discretionary appeal must be filed within 30 days of entry of the order complained of. OCGA § 5-6-35 (d). Johnson's application was filed 42 days after the order complained of was entered. This Court lacks jurisdiction to consider Johnson's untimely application. Therefore, the application is ordered DISMISSED.

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

SEP 13 2001

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

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

William Z. Martin, Jr. , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 01 2001**

A02D0035. AMMONS v. SOUZA.

Tracey Kuzik Ammons seeks an appeal from an order entered August 6, 2001, denying her "motion to compel domestication and set-aside of foreign judgments." A review of the materials included with Ammons' application reveals that the issues raised were finally disposed of no later than July 30, 2001. The order entered on August 6 was in substance the denial of a motion for reconsideration. The filing of such a motion does not extend the time for filing an application for appeal from a final judgment. OCGA § 5-6-35 (d); *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Moreover, the trial court's denial of a motion for reconsideration is not an appealable order in its own right. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). For the foregoing reasons, Ammons' application is dismissed for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 01 2001

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

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

Clerk.



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

ATLANTA, SEPTEMBER 24, 2001

The Court of Appeals hereby passes the following order: **SEP 24 2001**

APPLICATION NO. A02D0036
HARBOR SPECIALTY INSURANCE CO. ET AL V. JUSTIN K. DAVIS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91003

01CV431

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 24 2001

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

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

Clerk.



CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 15, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0145**

HARBOR SPECIALTY INSURANCE COMPANY v. JUSTIN K. DAVIS et al.

Clerk, Supreme Court of Georgia

Wrong # Correct #
Case No. ~~A02D0039~~ A02D0036

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

→ I sent A02D0039
case up already
when I received this by mistake

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

ATLANTA, SEPTEMBER 28, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0037

ZACHARY B. TAYLOR V. MUSCOGEE COUNTY DEPUTY SHERIFF, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94004

01608

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 26 2001**

A02D0038. Madison v. Barnett

William J. Madison Sr. and Shirley Madison filed this application for discretionary appeal seeking review of the trial court's final order granting joint custody to the Madisons, the paternal grandparents, and to the Barnetts, the maternal grandparents. The order sought to be appealed was entered by the trial court on August 6, 2001. This application was filed 31 days later, on September 6, 2001. However, an application for discretionary appeal must be filed within 30 days after entry of the order complained of. OCGA § 5-6-35 (d). The Madisons' failure to timely file this application for discretionary appeal deprives this Court of jurisdiction to consider the application. Accordingly, this application for discretionary appeal is ordered DISMISSED.

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

SEP 26 2001

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

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

W. Z. Martin, Jr.

Clerk.

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

ATLANTA, OCTOBER 24, 0001

The Court of Appeals passed the following order **OCT 24 2001**

Case No. A02D0038

WILLIAM J. MADISON, SR ET AL V. JAMES A. BARNETT ET AL

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

95-004
1106906

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 24 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, OCTOBER 04, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0039

G.C. SPRAYER SERVICES ET AL V. JUSTIN K. DAVIS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91004

01CV431

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 04 2001

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

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

Clerk.



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

ATLANTA, SEPTEMBER 25, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0040
TIMOTHY S. HODGES V. KATHY ELAINE HODGES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96004

01V17

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 25 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 19 2001

A02D0041. Holling v. Piedmont Medical Center, Inc.

Applicant Leona Holling filed this application for discretionary appeal seeking review of the trial court's affirmance of the decision of the Appellate Division of the State Board of Workers' Compensation. The decision of the Appellate Division was issued on April 6, 2001. Holling filed her notice of appeal with the trial court on June 13, 2001. However, a notice of appeal to the superior court must be filed within 20 days from the date of the final award by the Appellate Division. OCGA § 34-9-105 (b). Holling's failure to timely file her notice of appeal deprives this Court of jurisdiction to consider this application. Accordingly, this application is ordered DISMISSED.

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

SEP 19 2001

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

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

W. Z. Marti, Jr., Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 09 2001**

A02D0041. Holling v. Piedmont Medical Center, Inc.

Leona Hollings motion for reconsideration of this Court's dismissal of her application for discretionary appeal is GRANTED. Upon review of the merits of the case, the application for discretionary appeal is DENIED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **OCT 09 2001**

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

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

Wil. Z. Martin, Jr., Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 29, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0242**

LEONA HOLLING v. PIEDMONT MEDICAL CENTER, INC., d/b/a FAYETTE
COMMUNITY HOSPITAL

Clerk, Supreme Court of Georgia

Case No. A02D0041

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 31 2001

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 18 2001**

A02D0042. PHOEBE PUTNEY MEMORIAL HOSPITAL, INC., ET AL. v. PALMYRA PARK HOSPITAL

Phoebe Putney Memorial Hospital, Inc. filed this application for discretionary appeal from the superior court's "Interlocutory Order of Remand for Additional Evidence" to the appropriate administrative agencies. The Georgia Administrative Procedure Act does not authorize appellate court review of superior court decisions arising thereunder, unless the reviewing superior court has rendered a "final judgment." OCGA § 50-13-20. Therefore, the interlocutory appeal procedure, set forth in OCGA § 5-6-34 (b), does not apply to cases, such as this one, arising under the Georgia Administrative Procedure Act. *Howell v. Harden*, 231 Ga. 594, 595 (203 SE2d 206) (1974); *State Health Planning Review Board v. Piedmont Hospital, Inc.*, 173 Ga. App. 450, 451 (326 SE2d 814) (1985).

The applicant argues that its appeal is directly appealable pursuant to the collateral order doctrine, despite the absence of a final judgment terminating the underlying action. Under the collateral order doctrine, a direct appeal is permitted in certain limited situations, "because the issue is substantially separate from the basic issues presented in the complaint, an important right may be lost if review had to await final judgment, and nothing further in the underlying action can affect the issue on appeal." *In re Paul*, 270 Ga. 680, 682 (513 SE2d 219) (1999).

However, "[t]o come within the 'small class' of decisions excepted from the final-judgment rule . . . , the order must conclusively determine the disputed question, resolve an important issue completely separate from the merits of the action, and be effectively unreviewable on appeal from a final judgment." *Coopers & Lybrand v.*

Livesay, 437 U.S. 463, 468-69 (98 SC 2451, 57 LE2d 351) (1977); see also *Scroggins v. Edmondson*, 250 Ga. 430 (297 SE2d 469) (1982). The order at issue does not meet these criteria, and the collateral order exception has never been extended to the type of order at issue in this case. See *Johnson & Johnson v. Kaufman*, 226 Ga. App. 77, 78 (485 SE2d 243) (1997); *State v. Gober*, 229 Ga. App. 700 (494 SE2d 724) (1997). Accordingly this order does not give rise to the collateral order exception.

Moreover, the case does not come within the rare exception set forth in *Waldrip v. Head*, 272 Ga. 572 (1) (532 SE2d 380) (2000), whereby the Supreme Court has “[i]n effect, . . . granted the application for interlocutory review in those exceptional cases that involve an issue of great concern, gravity, and importance to the public and no timely opportunity for appellate review” when the trial court has refused to grant a certificate of immediate review.

Because the order on appeal is not final, is not collateral, and does not fall within the holding of *Waldrip v. Head*, this Court lacks jurisdiction. The application is thus hereby DISMISSED.

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

SEP 18 2001

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

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

W. Z. Mathis, Jr., Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 9, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0111**

PHOEBE PUTNEY MEMORIAL HOSPITAL, INC., et al. v. PALMYRA PARK HOSPITAL, INC., d/b/a PALMYRA MEDICAL CENTERS

Clerk, Supreme Court of Georgia

Case No. A02D0042

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S02C0111

Atlanta, February 4, 2002

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

PHOEBE PUTNEY MEMORIAL HOSPITAL, INC., et al. v. PALMYRA PARK
HOSPITAL, INC., d/b/a PALMYRA MEDICAL CENTERS

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Court of Appeals Case No. A02D0042



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 25, 2002

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

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

Nathaniel L. Middleton
Clerk.

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

ATLANTA, SEPTEMBER 26, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0043

JONES COUNTY BOARD OF EDUCATION ET AL V. CECIL B. PATTERSON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70004

01CV18362

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 26 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 14 2001

A02D0044. ANTHONY G. PUGH v. R. D. COLLINS.

Anthony G. Pugh, a prison inmate, seeks appellate review of superior court orders dismissing his civil action and denying his motion for reconsideration. The motion for reconsideration does not extend the time for filing an application. OCGA § 5-6-35 (d). See also OCGA § 5-6-38 and *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Further a denial of a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). The dismissal order, which is the only appealable order, was entered on June 21, 2001, or 78 days prior to the date this application was filed. Because the application is untimely, this Court lacks jurisdiction to consider it. Therefore, the application is ordered DISMISSED.

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

SEP 14 2001

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

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

W. Z. Martin, III, Clerk.

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

ATLANTA, OCTOBER 09, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0045
CARL ROGERS ET AL V. EUGENE FULLER ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99004

00CV67822

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 09 2001

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

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

Clerk.

W. Z. Martin, Jr.



SUPREME COURT OF GEORGIA
Case No. S01D1796

Atlanta SEP 07 2001

The Honorable Supreme Court met pursuant to adjournment.

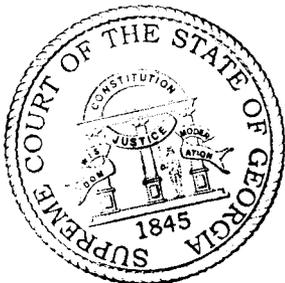
The following order was passed:

CARL ROGERS et al v. EUGENE FULLER et al.

It appearing that the above-styled appeal does not involve an election contest within the meaning of OCGA §§ 21-2-520 et seq., but raises only the validity of the trial court's award of attorney's fees pursuant to OCGA § 9-15-14 in a declaratory judgment action, this Court does not have jurisdiction to consider it and the same is hereby transferred to the Court of Appeals. See Jones v. Van Vleck, 224 Ga. 796 (1968). Compare Middleton v. Smith, 273 Ga. 202 (2000).

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

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



Suzanne M. Stinchcomb, Chief Deputy Clerk

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

ATLANTA, SEPTEMBER 28, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0047

ARBORSTATION HOMEOWNER'S SERVICES, INC, . V. CATHERINE M. DORMAN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92004

99CV01554

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, OCTOBER 01, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0048
JERMAINE JOHNSON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71004

97CR0232

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 01 2001

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

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

W. Z. Martin, Jr. Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 18 2001**

A02D0049. CITY OF ATLANTA ET AL v. 10TH STREET PROPERTIES.

The City of Atlanta seeks appellate review of a superior court order entered in this mandamus action. Because the Supreme Court has jurisdiction over appeals in mandamus cases, the application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, Sec. VI., Par. III (5); OCGA 9-6-28 (b).

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

SEP 18 2001

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

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

W. Z. Marti, Jr. Clerk.

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

ATLANTA, OCTOBER 15, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0050
CHARLES LEVY MOTOR MAX ET AL V. LEO GREENE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

95005

SU01CV2297 253-32-1929

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 15 2001

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

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

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: November 13, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0329**

CHARLES LEVY MOTOR MIX et al. v. LEO GREENE

Clerk, Supreme Court of Georgia

Case No. A02D0050

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office **NOV 16 2001**

Clerk, Court of Appeals of Georgia

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

ATLANTA, OCTOBER 01, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0051

NATHANIEL GARNER V. NATIONWIDE MORTGAGE SERVICES, INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96005

2000CV28757

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 01 2001

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

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

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: November 19, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0351**

NATHANIEL GARNER v. NATIONWIDE MORTGAGE SERVICES, INC.

Clerk, Supreme Court of Georgia

Case No. A02D0051

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

NOV 21 2001

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 28, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0052
BENNETT J. BURKE V. YVONNE E. KING

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90005
00CV01027

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 28 2001**

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

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

Clerk.



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

ATLANTA,

SEPTEMBER 26, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0053

MIGUEL ORTIZ V. IRWIN COUNTY

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97005

95CR020

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 26 2001

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

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

Clerk.

W. Z. Martin, Jr.



SUPREME COURT OF GEORGIA
Case No. S01D1806.

Atlanta **SEP 17 2001**

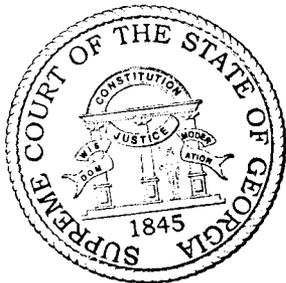
The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MIGUEL ORTIZ v. IRWIN COUNTY

Appellant timely filed the instant discretionary application seeking review of his August 1995 sentence; the denial of his motion for Writ of Error Coram Nobis, allegedly filed in March 2001; and the court's "refuse [sic] to compel a Writ of Mandamus filed July 10, 2001." The only order in the record, however, is the trial court's July 26, 2001 denial of appellant's motion for Writ of Error Coram Nobis.

Although the appeal of a denial of a writ of mandamus would invoke this Court's jurisdiction, there is no evidence in the record of such a writ having been filed in or ruled on by the superior court. Furthermore, the crime for which appellant was convicted was not one that would invoke this Court's subject matter jurisdiction. Ortiz v. State, 222 Ga. App. 432 (474 SE2d 300) (1996). And as a Writ of Error Coram Nobis is the predecessor to an extraordinary motion for new trial, see Willis v. State, 249 Ga. 261 (290 SE2d 87) (1982), and does not qualify as an extraordinary remedy, see Spence v. Miller, 176 Ga. 96 (167 SE 188) (1932) ("extraordinary remedies" refers only to "mandamus, prohibition, quo warranto, and the like"), there is no basis for invoking this Court's jurisdiction. Accordingly, the application hereby is transferred to the Court of Appeals.



SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
The minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto
Affixed the day and year last above written.

, Chief Deputy Clerk

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

ATLANTA, OCTOBER 04, 2001

The Court of Appeals passed the following order:

Case No. A02D0053

MIGUEL ORTIZ V. IRWIN COUNTY

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

97-005
95CR020

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 04 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 28 2001**

A02D0054. DAVID B. BENNETT v. THE STATE.

David B. Bennett, pro se, seeks a discretionary appeal from the superior court's denial of his motion to amend the sentence imposed following his negotiated plea of guilty to charges of arson and burglary. An appeal of the denial of a motion to modify a criminal sentence is a continuation of the previous criminal proceeding, and is not subject to OCGA § 42-12-8 or OCGA § 5-6-35 (b). Thus, an application for discretionary appeal was not necessary. Therefore, the application is GRANTED pursuant to OCGA § 5-6-35 (j). Bennett shall have ten days from the date of this order to file his notice of appeal with the superior court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2001

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

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

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



SUPREME COURT OF GEORGIA
Case No. S01D1795.

Atlanta **SEP 17 2001**

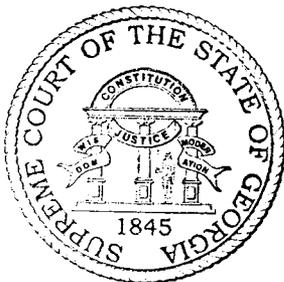
The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DAVID B. BENNETT v. THE STATE.

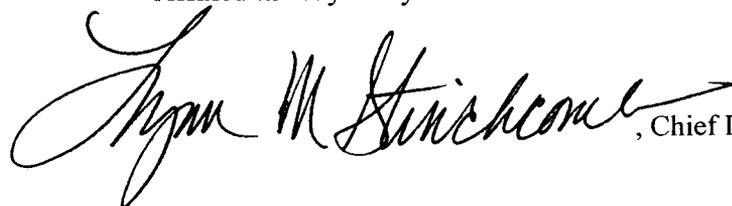
From the Superior Court of Coffee County.

Appellant timely filed the instant discretionary application seeking review of the trial court's denial of his motion to amend sentence in which he challenged the restitution order imposed as part of a negotiated plea of guilty to charges of arson and burglary. However, as this Court does not have jurisdiction over burglary or arson appeals and to the extent appellant raised any constitutional questions, those questions either were not ruled on by the trial court or would involve the application of well-settled constitutional principles, see Zepp v. Mayor and Council of the City of Athens, 255 Ga. 449 (339 SE2d 576) (1986), there appears to be no basis for jurisdiction in this Court. Accordingly, the appeal hereby is transferred to the Court of Appeals.



SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
The minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto
Affixed the day and year last above written.

 , Chief Deputy Clerk

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

ATLANTA, OCTOBER 17, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0055
WINFRED STINESPRING V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98005

K8548710 S8548698

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 17 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, OCTOBER 09, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0056

BERKLEY INSURANCE COMPANY OF THE CAROLINAS ET AL V. CARL MILLER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99005

2001RCCV528 252-29-8827

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 09 2001

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

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

Clerk.

W. Z. Martin, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 26, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0221**

BERKLEY INSURANCE COMPANY OF THE CAROLINAS v. CARL MILLER et al.

Clerk, Supreme Court of Georgia

Case No. A02D0056

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 01 2001**

A02D0057. CITY OF WALNUT GROVE, GEORGIA v. QUESTCO, LTD.

The City of Walnut Grove filed this discretionary application from the superior court's order granting Questco, Ltd.'s petition for writ of mandamus. The Georgia Constitution provides that the Supreme Court of Georgia shall have appellate jurisdiction as to all cases involving extraordinary remedies. Ga. Const. of 1983, Art. VI, § VI, ¶ III (5). Mandamus is an extraordinary remedy and, therefore, this appeal lies within the appellate jurisdiction of the Supreme Court. See also OCGA § 9-6-28 (b); *Leach v. Georgia Power Co.*, 228 Ga. 16 (183 SE2d 755) (1971). Accordingly, this case is hereby TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 01 2001**

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

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

Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

AKB

PROPOSED ORDER (A02D0057.93) September 27, 2001 (by Durant)	
AGREE	DISAGREE

The Court of Appeals hereby passes the following order:

A02D0057. CITY OF WALNUT GROVE, GEORGIA v. QUESTCO, LTD.

The City of Walnut Grove filed this discretionary application from the superior court's order granting Questco, Ltd.'s petition for writ of mandamus. The Georgia Constitution provides that the Supreme Court of Georgia shall have appellate jurisdiction as to all cases involving extraordinary remedies. Ga. Const. of 1983, Art. VI, § VI, ¶ III (5). Mandamus is an extraordinary remedy and, therefore, this appeal lies within the appellate jurisdiction of the Supreme Court. See also OCGA § 9-6-28 (b); *Leach v. Georgia Power Co.*, 228 Ga. 16 (183 SE2d 755) (1971). Accordingly, this case is hereby TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 25 2001**

A02D0058. WARREN SKILLERN v. THE STATE.

On September 17, 2001, Warren Skillern filed an application seeking discretionary appeal of the order of the superior court, entered July 31, 2001, denying his motion for reconsideration of the order of said court, entered July 2, 2001, denying Skillern's extraordinary motion for new trial. Because Skillern has failed to timely file his application within 30 days of the entry of any order sought to be appealed, this application is hereby dismissed. OCGA § 5-6-35 (d); compare OCGA § 5-6-38 (a).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 25 2001

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

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

William Z. Martini, III, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 26 2001**

A02D0059. ALVIN PITTMAN v. GENE A. SCROGGY.

Alvin Pittman, pro se, filed this application for discretionary appeal from an order of the superior court, denying his motion for refund, and entered in this habeas corpus proceeding. Because the Supreme Court exercises exclusive jurisdiction over habeas corpus cases, this application is hereby TRANSFERRED to that court. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (4); *Fullwood v. Sivley*, 271 Ga. 248, 249 (517 SE2d 511) (1999).

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

SEP 26 2001

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

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

Will. Z. Martin, Jr.
....., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 10 2001**

A02D0060. DAVIS v. DAVIS.

James Cullen Davis seeks an appeal from an order denying his petition to modify the child support provisions of the parties' final divorce decree due to changed circumstances. The underlying subject matter of this case falls within the divorce and alimony jurisdiction of the Supreme Court. Ga. Const. 1983, Art. VI, § VI, ¶ III (6); *Pearson v. Pearson*, 265 Ga. 100 (454 SE2d 124) (1995); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755, 756 (1) (229 SE2d 744) (1976). Accordingly, Davis's application is transferred to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 10 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 26 2001**

**A02D0061. KATHERINE IBANEZ WICKLIFFE v. RICHARD TODD
WICKLIFFE**

Because this discretionary application challenges a final judgment and decree of divorce, it is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6).

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

SEP 26 2001

*I certify that the above is a true extract from
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W. Z. Martin, Jr., Clerk.

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

ATLANTA, OCTOBER 10, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0062
JOSHUA COLE THOMAS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95006

99CR15063

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 10 2001**

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, OCTOBER 04, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0063

RONALD J. RATTAZZI V. DEBORAH SAYE A/K/A DEBORAH SMITH

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96006

99CV1695

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 04 2001

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

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

Clerk.

W. Z. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 19 2001**

A02D0064. HENRY GRADY INGRAM v. THE STATE.

On August 28, 2000, the superior court entered an order revoking the probation provisions of Henry Grady Ingram's original sentence. On September 21, 2001, Ingram filed an application seeking discretionary appeal of that order. Because not filed within 30 days of the entry of the order, decision, or judgment complained of, the application is untimely. OCGA § 5-6-35 (d); see *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

Furthermore, any motion for reconsideration which may have been filed by Ingram does not extend the time for filing an application. OCGA § 5-6-35 (d). See also OCGA § 5-6-38 and *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Nor is a denial of a motion for reconsideration appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).

Because the application is untimely, this Court lacks jurisdiction to consider it. Therefore, the application is hereby DISMISSED.

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

OCT 19 2001

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA,

SEP 28 2001

The Court of Appeals hereby passes the following order:

A02D0065. HIGHTOWER v. HIGHTOWER.

Applicant Larry Hightower has filed an application for discretionary appeal from an order denying his motion for new trial in a divorce case. Because the Supreme Court has appellate jurisdiction over appeals from decisions entered in divorce cases, Hightower's application is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2001

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Clerk.



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

ATLANTA, OCTOBER 18, 2001

The Court of Appeals hereby passes the following order: **OCT 18 2001**

APPLICATION NO. A02D0066
STAFF USA ET AL V. MARIA GARCIA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70006

01V001027 634-55-5598

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 18 2001**

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

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

Clerk.

Will. Z. Martini, III

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

ATLANTA, OCTOBER 03, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0067

ARRIE L. PARKER V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98006

979039434

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 03 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 18 2001**

A02D0069. FURR v. LARSEN.

Defendant Penny Douglass Furr seeks an appeal from a money judgment totaling less than \$10,000.00 based on OCGA § 5-6-35 (a) (6). Because Furr received a zero judgment on her counterclaim, however, the judgment complained of is directly appealable. See *Robinwood, Inc. v. Baker*, 206 Ga. App. 202-203 (1) (425 SE2d 353) (1992). Accordingly, Furr's application is granted as required under OCGA § 5-6-35 (j). Furr shall have ten days from the date of this order to file her notice of appeal. The clerk of the state court is directed to include a copy of this order in the record transmitted to this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2001

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

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

 Clerk.

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

FILED
2001 OCT -1 PM 3:11

ATLANTA, **SEP 28 2001**

The Court of Appeals hereby passes the following order:

A02D0070. SCOTT F. BURKHARDT v. KRISTI BURKHARDT

Scott F. Burkhardt filed this application for discretionary appeal from the superior court order denying his motion to set aside a final judgment and decree of divorce. However, the Supreme Court has exclusive jurisdiction over all divorce and alimony cases. Ga. Const. Art. 6, Sec. 6, Par. III (6). Therefore, this application is TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **SEP 28 2001**

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

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

Clerk.

Will Z. Martin, III

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

ATLANTA, OCTOBER 18, 2001

The Court of Appeals hereby passes the following order:

OCT 18 2001

APPLICATION NO. A02D0071

MARIA GARCIA V. MARY ANN INDUSTRIES ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70007

01V001027 634-55-5598

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2001

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

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

Clerk.

W. Z. Martini, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: November 7, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0304**

MARIA GARCIA v. MARY ANN INDUSTRIES et al.

Clerk, Supreme Court of Georgia

Case No. A02D0071

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

NOV 16 2001

Clerk, Court of Appeals of Georgia

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

ATLANTA,

The Court of Appeals hereby passes the following order:

OCT 16 2001

A02D0072. VICTOR DICKEY v. THE STATE.

On August 24, 2001, the superior court entered an order revoking the probation provisions of Victor Dickey's original sentence. On Tuesday, September 25, 2001, Dickey filed an application seeking discretionary appeal of that order. Because Dickey's application was not filed within 30 days of the entry of the order, decision, or judgment complained of, it is DISMISSED. OCGA § 5-6-35 (d); see *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

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

OCT 16 2001

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

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

W. Z. Martin, Jr. Clerk.

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

ATLANTA, OCTOBER 22, 2001

The Court of Appeals hereby passes the following order: **OCT 22 2001**

APPLICATION NO. A02D0073

JAMES BRANTLEY ET AL V. GEORGIA DEPARTMENT OF HUMAN RESOURCES

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91006

2001CV36571

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 22 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, OCTOBER 19, 2001

The Court of Appeals hereby passes the following order: **OCT 19 2001**

APPLICATION NO. A02D0074

ALTON D. JACKSON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DISMISSED.

94007

98R99

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 19 2001

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

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

Clerk.

W. Z. Mathis, Jr.

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

ATLANTA, OCTOBER 18, 2001

The Court of Appeals hereby passes the following order:

OCT 18 2001

APPLICATION NO. A02D0075

ULYSSES E. NICHOLSON V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95007

99CR10454R1

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2001

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

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

Clerk.

W. Z. Martin, III

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 11 2001**

**A02D0076. DANA MULLENEX v. BEVERAGE SOURCE
INTERNATIONAL, INC. ET AL.**

On September 21, 2001, Dana Mullenex, using the Court's drop box, attempted the filing of an application seeking discretionary appeal of the order of the state court, entered August 23, 2001, denying her motions (1) to set aside the award of attorney fees against her and her attorney and (2) to stipulate her claims to the state court's next bench trial calendar. Her application, however, was accompanied by neither fees nor a pauper's affidavit as required by this Court's Rule 2 (b), and thus, under this Court's Rules 4 and 5, this attempted filing was a nullity. On September 27, 2001, her application was refiled, this time accompanied by a pauper's affidavit, but because she failed to file an effective application within 30 days of the entry of the order sought to be appealed, her application is hereby DISMISSED. OCGA § 5-6-35 (d); compare OCGA § 5-6-38 (a).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 11 2001

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

 , Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 17 2001**

A02D0077. CITY OF WARNER ROBINS v. MILTON BAKER

The Court's order of October 15, 2001, granting the application is incorrect due to clerical error. The attached order is substituted therefore.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 17 2001**

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Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 15 2001**

A02D0077. CITY OF WARNER ROBINS v. MILTON BAKER.

The City of Warner Robins filed a timely application seeking discretionary appeal of the order of the state court granting Milton Baker's motion to extinguish the City's subrogation lien asserted under OCGA § 34-9-11.1.

In 1995, Milton Baker sustained a compensable injury, under the Workers' Compensation Act, arising out of an on the job automobile incident. He subsequently filed a tort suit in state court against the third party tortfeasor in that incident. In the tort suit, Baker sought damages for injuries arising out of the same incident that was the basis for his initial claim of workers' compensation benefits from the City of Warner Robins. During settlement negotiations between Baker and the third party tortfeasor, the City gave notice of its intent to assert a subrogation lien. But the tort suit was subsequently settled and dismissed with prejudice before the order granting Baker's motion to extinguish lien was entered. As the entry of the order granting Baker's motion left no further issues pending adjudication in the state court regarding this matter, the order constituted a final judgment under OCGA § 5-6-34 (a).

After the order was entered, the City timely filed an application for discretionary appeal. It did so apparently believing that an application was required under OCGA §§ 5-6-35 (a) (1) and (b) because its lien arose from its payment of Baker's prior claims for workers' compensation benefits for the injuries he sustained in the automobile incident. OCGA § 5-6-35 (a) (1) states, inter alia, that appeals shall be taken as provided under said Code section from decisions of the superior court reviewing decisions of the State Board of Workers' Compensation. The order at issue in this application was entered by the state court and not by the superior court, and

the state court was not reviewing a decision of the State Board of Workers' Compensation but rather an ancillary motion to extinguish the City's subrogation lien. Thus, Baker was not required to file an application for discretionary review.

But as the order at issue meets the criterion of a final order under OCGA § 5-6-34 (a), does not meet the criteria requiring an application under OCGA § 5-6-35 (a) & (b), and as no notice of appeal has been filed but the City did file a timely application for a discretionary appeal, this application meets the requirements for disposition under OCGA § 5-6-35 (j). This application is therefore GRANTED pursuant to OCGA § 5-6-35 (j). City of Warner Robins shall have ten days from the date of this order to file a notice of appeal. The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

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

OCT 15 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

OCT 15 2001

A02D0077. CITY OF WARNER ROBINS v. MILTON BAKER.

The City of Warner Robins filed a timely application seeking discretionary appeal of the order of the state court granting Milton Baker's motion to extinguish the City's subrogation lien asserted under OCGA § 34-9-11.1.

In 1995, Milton Baker sustained a compensable injury, under the Workers' Compensation Act, arising out of an on the job automobile incident. He subsequently filed a tort suit in state court against the third party tortfeasor in that incident. In the tort suit, Baker sought damages for injuries arising out of the same incident that was the basis for his initial claim of workers' compensation benefits from the City of Warner Robins. During settlement negotiations between Baker and the third party tortfeasor, the City gave notice of its intent to assert a subrogation lien. But the tort suit was subsequently settled and dismissed with prejudice before the order granting Baker's motion to extinguish lien was entered. As the entry of the order granting Baker's motion left no further issues pending adjudication in the state court regarding this matter, the order constituted a final judgment under OCGA § 5-6-34 (a).

After the order was entered, the City timely filed an application for discretionary appeal. It did so apparently believing that an application was required under OCGA §§ 5-6-35 (a) (1) and (b) because its lien arose from its payment of Baker's prior claims for workers' compensation benefits for the injuries he sustained in the automobile incident. OCGA § 5-6-35 (a) (1) states, inter alia, that appeals shall be taken as provided under said Code section from decisions of the superior court reviewing decisions of the State Board of Workers' Compensation. The order at issue in this application was entered by the state court and not by the superior court, and

the state court was not reviewing a decision of the State Board of Workers' Compensation but rather an ancillary motion to extinguish the City's subrogation lien. Thus, Baker was not required to file an application for discretionary review.

But as the order at issue meets the criterion of a final order under OCGA § 5-6-34 (a), does not meet the criteria requiring an application under OCGA § 5-6-35 (a) & (b), and as no notice of appeal has been filed but the City did file a timely application for a discretionary appeal, this application meets the requirements for disposition under OCGA § 5-6-35 (j). This application is therefore GRANTED pursuant to OCGA § 5-6-35 (j). Baker shall have ten days from the date of this order to file a notice of appeal. The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

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

OCT 15 2001

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hereto affixed the day and year last above written.*

W. Z. Marti, III, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 24 2001**

A02D0078; A02D0091. JAMES MARVIN VARNER ET AL. v. ROBERT ALLEN HUGHES (two cases).

James Marvin Varner, pro se, seeks discretionary appeals from the state court's denial of a "motion to set side" an interlocutory order and from the entry of final judgment in this action for damages. As a final judgment has been entered and the case is not subject to OCGA § 5-6-35 (b), an application for discretionary appeal was not necessary.

Therefore, Application No. A02D0091 is GRANTED pursuant to OCGA § 5-6-35 (j). Application No. A02D0078 is DISMISSED as redundant, albeit this should not be construed as limiting the issues which may be raised on appeal pursuant to OCGA § 5-6-34 (d).

Varner shall have ten days from the date of this order to file his notice of appeal with the state court. The clerk of the state court is directed to include a copy of this order in the record transmitted to this Court.

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

OCT 24 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 24 2001**

A02D0079. MALIK v. THE STATE.

Douglas Marshall Malik seeks an appeal from an order purporting to revoke 13 months and six days' worth of probation in the context of a misdemeanor abandonment proceeding. This is not a case involving an order revoking probation since Malik never commenced serving a probated sentence at any time before the order complained of was entered. This is instead a case involving the revocation of a suspended sentence, to which the discretionary appeal procedure is not applicable. See generally *White v. State*, 233 Ga. App. 873, 875 (505 SE2d 228) (1998). Malik's application is therefore *granted* as required under OCGA § 5-6-35 (j).

Malik shall have ten days from the date of this order to file his notice of appeal. The clerk of the state court shall include a copy of this order in the record transmitted to this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 24 2001

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

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

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

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

ATLANTA, OCTOBER 18, 2001

The Court of Appeals passed the following order: **OCT 18 2001**

Case No. A02D0080

CALVIN T. MCGEE V. GENE A. SCROGGY

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

99-007
99HC72

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2001

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

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

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: October 26, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0217**

CALVIN T. MCGEE v. GENE A. SCROGGY, Warden

Clerk, Supreme Court of Georgia

Case No. A02D0080

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 30 2001

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 18 2001**

A02D0081. CHERYL B. SMITH v. CHESTER SMITH, JR.

The respondent contends that the application for discretionary appeal in this child custody case is untimely because it was not filed within 30 days of the entry of the order complained of, as required by OCGA § 5-6-35 (d). On August 27, 2001, the Superior Court of Washington County entered an order dismissing the applicant's Petition for Change of Custody and awarding attorney fees to the defendant. On September 11, 2001, the court entered an amended order that is essentially identical to the August order, but that cites OCGA § 9-15-14 (b) as the basis for the attorney fees award. This application for discretionary appeal was filed on September 27, 2001, 31 days after the entry of the August 27 order. Both the August and the September orders were entered nunc pro tunc to August 10, 2001, but August 27, 2001 is the filing date of the first order, and the date from which the appeals time began to run.

"The purpose of entering an order nunc pro tunc is to record some previously unrecorded action actually taken or judgment actually rendered." *Parks v. Suntrust Bank*, 248 Ga. App. 846, 848 (545 SE2d 31) (2001) (Citation and punctuation omitted). Further, "[a] nunc pro tunc entry does not extend the statutory period for filing a notice of appeal." *Veasley v. State*, 272 Ga. 837, 839 (537 SE2d 42) (2000) (Citation and punctuation omitted). Unlike the situation in *In the Interest of H.L.W.*, 244 Ga. App. 498 (535 SE2d 834) (2000), the September order in this case was a proper nunc pro tunc order because it did not substantively change the earlier order, but simply recorded the code section on which the trial court based its attorney fees

award. Accordingly, since this application for discretionary appeal was filed more than 30 days after entry of the August 27 order, it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2001

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

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

W. Z. Martini, Jr., Clerk.

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

ATLANTA, OCTOBER 18, 2001

The Court of Appeals hereby passes the following order:

OCT 18 2001

APPLICATION NO. A02D0082
CORNELL ANTONIO GRIFFIN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92007

00790

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2001

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

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

Clerk.

W. Z. Martin, III

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

ATLANTA, NOVEMBER 02, 2001

The Court of Appeals hereby passes the following order: **NOV 02 2001**

APPLICATION NO. A02D0083

JOSEPH GADSDEN ET AL V. GEORGIA DEPARTMENT OF CORRECTION ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71007

99V102

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 02 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: November 13, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0323**

JOSEPH GADSEN et al. v. GEORGIA DEPARTMENT OF CORRECTIONS et al.

Clerk, Supreme Court of Georgia

Case No. A02D0083

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

NOV 16 2001

Clerk, Court of Appeals of Georgia

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

ATLANTA, NOVEMBER 01, 2001

The Court of Appeals hereby passes the following order: **NOV 01 2001**

APPLICATION NO. A02D0084

ROBERT JAMES BABSON, JR., V. SECURED PARKING SERVICES, INC., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91007

2000CV26372

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 01 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

OCT 25 2001

A02D0085. Porch v. Victor Warren Properties

Philip Porch filed this application for discretionary appeal seeking review of the trial court's order which purported to vacate a prior order entered March 28, 2001. However, "[a] judgment, although signed by a judge, is not 'entered' until it is filed with the court clerk." OCGA § 9-11-58 (b). *Preece v. Turman Realty Co.*, 228 Ga. App. 609, 610 (492 SE2d 342) (1997). Thus, the order vacating the March 28, 2001 order is without legal effect until entered by the court clerk. There is no evidence in the application which evidences that the vacating of the March 28th order was ever entered by the trial court. Further, in the event a valid order vacating the March 28th order was or is subsequently entered by the trial court, an application for interlocutory appeal would be required to confer jurisdiction upon this Court. OCGA § 5-6-34 (b). Accordingly, this application is ordered DISMISSED.

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

OCT 25 2001

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 01 2001**

A02D0086. JAMES MICHAEL McKINNEY v. DONNIE SUE McKINNEY

James Michael McKinney filed this discretionary application from the superior court's order finding him in contempt for failing to abide by various provisions of a final divorce decree. An action based on the failure to comply with provisions of a final divorce decree is ancillary to the prior divorce action and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755 (1) (229 SE2d 744) (1976). This application is thus hereby TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 01 2001**

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hereto affixed the day and year last above written.*

W. Z. Martin, Jr., Clerk.

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

ATLANTA, OCTOBER 31, 2001

The Court of Appeals hereby passes the following order: **OCT 31 2001**

APPLICATION NO. A02D0087

CRAB HOUSE, INC., D/B/A CRAB HOUSE SEAFOOD RESTAURANT V. THE CITY OF
MARIETTA

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96008

011285534

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 31 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 25 2001**

**A02D0088. ROBERT CALHOUN v. MARGARITA BRYSON, F/K/A
MARGARITA PARRISH-CALHOUN.**

Robert Calhoun seeks appellate review of the superior court's September 6, 2001 order denying his complaint for modification of child custody. An application for discretionary appeal must be filed with this Court within 30 days of entry of the order complained of. OCGA § 5-6-35 (d). Calhoun's application was filed 35 days after the order complained of was entered. This Court lacks jurisdiction to consider Calhoun's untimely application. Therefore, this application is ordered DISMISSED.

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

OCT 25 2001

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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.*



....., Clerk.

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

ATLANTA, NOVEMBER 07, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0089
ROBERT PRINGLE V. MARY JOYCE PRINGLE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97008

18066

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 07 2001**

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

*Witness my signature and the seal of said court
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Clerk.



CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: November 27, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0408**

ROBERT PRINGLE v. MARY JOYCE PRINGLE

Clerk, Supreme Court of Georgia

Case No. A02D0089

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, NOVEMBER 01, 2001

The Court of Appeals hereby passes the following order:

NOV 01 2001

APPLICATION NO. A02D0090

CHRISTOPHER BLAKE V. CHARITY NAKAK F/K/A CHARITY BLAKE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70008

01V0459

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 01 2001

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

*Witness my signature and the seal of said court
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Clerk.

W. Z. Mathis, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 26 2001**

A02D0092. DOROTHY BRYANT v. ASPLUNDH TREE EXPERT CO.

Dorothy Bryant filed this application for a discretionary appeal of the superior court's order affirming the award of the Appellate Division of the State Board of Workers' Compensation, which adopted the award of the administrative law judge denying her claim for recommencement of workers' compensation benefits. Bryant asserts that the superior court erred in failing to find OCGA § 34-9-13 (e) unconstitutional because it violates the equal protection and due process clauses of the United States Constitution.

Bryant timely raised this constitutional challenge before the administrative law judge and the Appellate Division, both of which declined to rule on the ground that they did not have jurisdiction to determine the matter. The superior court did not expressly address this constitutional issue in its final order affirming the award of the appellate division, but it did find that the administrative law judge's findings and conclusions are supported by competent evidence and are in accordance with the applicable law. Therefore, this constitutional challenge has been preserved on appeal. See *Rouse v. Department of Natural Resources*, 271 Ga. 726, 727 (1) (524 SE2d 455) (1999); see also *Kendrix v. Hollingsworth Concrete Products*, S01A0913, 2001 Ga. LEXIS 649 (Decided September 17, 2001), transferred by this Court to the Supreme Court with similar procedural posture.

This case accordingly lies within the exclusive jurisdiction of the Supreme Court of Georgia. Ga. Const. of 1983, Art. VI, Sec. VI, Par. II (1). Therefore, this application is hereby TRANSFERRED to the Supreme Court.

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

OCT 26 2001

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

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

W. Z. Marti, Jr., Clerk.

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

ATLANTA, NOVEMBER 13, 2001

The Court of Appeals hereby passes the following order: **NOV 13 2001**

APPLICATION NO. A02D0093
SHARON BUSH ELLISON V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99008

99RCCR1226

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

NOV 13 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.



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

ATLANTA, NOVEMBER 13, 2001

The Court of Appeals hereby passes the following order:

NOV 13 2001

APPLICATION NO. A02D0094

J & R GRADING, INC., ET AL V. DIANA MARIE McDONALD

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93008

01CV1791M

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 13 2001

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

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

Clerk.

W. Z. Marti, Jr.

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

ATLANTA, NOVEMBER 29, 0001

The Court of Appeals passed the following order

Case No. A02D0094

J & R GRADING, INC., ET AL V. DIANA MARIE McDONALD

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

93-008
01CV1791M

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 29 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A02D0095. Advancement for Christian Education, Inc. et al. v. Patrick Nolan Hardesty et al.

A02D0096. Fulton County, Georgia et al. v. Patrick Nolan Hardesty et al.

Advancement for Christian Education, Inc. (“ACE”), Freemanville LLC, Fulton County, Georgia and the Fulton County Board of Commissioners filed these discretionary applications seeking to appeal the final order remanding this case to the Fulton County Board of Commissioners to re-process ACE’s use-permit and variance applications in light of certain findings. The applicants state that they have filed the instant applications, as well as notices of direct appeal, in an abundance of caution because they are uncertain whether their appeals are discretionary or direct.

On November 1, 2000, the Fulton County Board of Commissioners granted ACE’s applications for a private school use permit and certain variances. Instead of appealing this decision to the superior court, the respondents, nearby property owners, filed in superior court a complaint to invalidate the zoning decision and for declaratory relief.

Although the plaintiffs in their complaint in effect asked the superior court to review the zoning decision, the action was not explicitly an appeal of an administrative agency decision. It was an original complaint in the sense that it was filed in superior court as a new action against the applicants instead of as an appeal of an administrative agency decision.

In *Sprayberry v. Dougherty County*, 273 Ga. 503 (543 SE2d 29) (2001), the Supreme Court rejected the bright-line rule established in *O S Advertising Co. v. Rubin*, 267 Ga. 723, 724 (1) (482 SE2d 295) (1997) that “if the underlying subject-

matter is zoning, an application for a discretionary appeal must be filed.” Instead, the *Sprayberry* court found that because the plaintiff brought a “mandamus action directly against the Board [of Commissioners], attacking the validity of the rezoning and seeking to prevent enforcement thereof,” the “order appealed from in this case does not involve the review of the decision of a local administrative agency,” and a direct appeal was proper. *Sprayberry*, 273 Ga. at 504. For reasons that are not made clear, the Supreme Court reached a result that is plainly inconsistent with its prior decision in *Crymes v. Smith*, 260 Ga. 730 (401 SE2d 11) (1991) (cited with approval in *Rebich v. Miles*, 264 Ga. 467 (448 SE2d 192) (1994)).

However, less than four months later, in *Consol. Gov't of Columbus v. Barwick*, 274 Ga. 176 (549 SE2d 73) (2001), the Supreme Court ruled that “[b]ecause both the petition for certiorari and petition for mandamus filed by appellee in the superior court sought review of the City’s decision not to renew the alcoholic beverage license and the superior court, in ruling on such petitions, reviewed the decision of a local administrative agency, an application for discretionary appeal was required in each appeal.” Although *Barwick* did not involve zoning, its holding nonetheless appears to be a retreat to the position of *Rebich v. Miles*, 264 Ga. 467, 469 (448 SE2d 192) (1994) that the “underlying subject matter generally controls over the relief sought in determining the proper procedure to follow to appeal.” This holding is inconsistent with *Sprayberry* yet *Barwick* not only does not overrule *Sprayberry* but cites it as support.

Recently, this Court followed *Sprayberry* and held that because certain residents did not appeal a board of commissioners’ zoning decision to the superior court but instead filed lawsuits directly against the board seeking injunctive and declaratory relief, the discretionary appeal procedure did not apply and their direct appeal was proper. *White v. Board of Commissioners*, Case No. A01A1509 (Ga. Ct. App. Oct. 2, 2001). In light of our recent adherence to *Sprayberry*, we conclude that the applicants should challenge the superior court order via direct appeal.

OCGA § 5-6-35 (j) provides:

When an appeal in a case enumerated in subsection (a) of Code Section 5-6-34, but not in subsection (a) of this Code section, is initiated by filing an otherwise timely application for permission to appeal pursuant

to subsection (b) of this Code section *without also filing a timely notice of appeal*, the appellate court shall have jurisdiction to decide the case and shall grant the application.

(Emphasis supplied.) In this instance, the applicants assert that they filed notices of appeal, which, presumably, are timely. Therefore, we do not grant the applications under this subsection, the appeals shall proceed via the notices of direct appeal and the applications are hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 08 2001

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

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

W. Z. Marti, Jr.
....., Clerk.

matter is zoning, an application for a discretionary appeal must be filed.” Instead, the *Sprayberry* court found that because the plaintiff brought a “mandamus action directly against the Board [of Commissioners], attacking the validity of the rezoning and seeking to prevent enforcement thereof,” the “order appealed from in this case does not involve the review of the decision of a local administrative agency,” and a direct appeal was proper. *Sprayberry*, 273 Ga. at 504. For reasons that are not made clear, the Supreme Court reached a result that is plainly inconsistent with its prior decision in *Crymes v. Smith*, 260 Ga. 730 (401 SE2d 11) (1991) (cited with approval in *Rebich v. Miles*, 264 Ga. 467 (448 SE2d 192) (1994)).

However, less than four months later, in *Consol. Gov't of Columbus v. Barwick*, 274 Ga. 176 (549 SE2d 73) (2001), the Supreme Court ruled that “[b]ecause both the petition for certiorari and petition for mandamus filed by appellee in the superior court sought review of the City’s decision not to renew the alcoholic beverage license and the superior court, in ruling on such petitions, reviewed the decision of a local administrative agency, an application for discretionary appeal was required in each appeal.” Although *Barwick* did not involve zoning, its holding nonetheless appears to be a retreat to the position of *Rebich v. Miles*, 264 Ga. 467, 469 (448 SE2d 192) (1994) that the “underlying subject matter generally controls over the relief sought in determining the proper procedure to follow to appeal.” This holding is inconsistent with *Sprayberry* yet *Barwick* not only does not overrule *Sprayberry* but cites it as support.

Recently, this Court followed *Sprayberry* and held that because certain residents did not appeal a board of commissioners’ zoning decision to the superior court but instead filed lawsuits directly against the board seeking injunctive and declaratory relief, the discretionary appeal procedure did not apply and their direct appeal was proper. *White v. Board of Commissioners*, Case No. A01A1509 (Ga. Ct. App. Oct. 2, 2001). In light of our recent adherence to *Sprayberry*, we conclude that the applicants should challenge the superior court order via direct appeal.

OCGA § 5-6-35 (j) provides:

When an appeal in a case enumerated in subsection (a) of Code Section 5-6-34, but not in subsection (a) of this Code section, is initiated by filing an otherwise timely application for permission to appeal pursuant

to subsection (b) of this Code section *without also filing a timely notice of appeal*, the appellate court shall have jurisdiction to decide the case and shall grant the application.

(Emphasis supplied.) In this instance, the applicants assert that they filed notices of appeal, which, presumably, are timely. Therefore, we do not grant the applications under this subsection, the appeals shall proceed via the notices of direct appeal and the applications are hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 08 2001**

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

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

W. Z. Marti, III
....., Clerk.

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

ATLANTA, OCTOBER 31, 2001

The Court of Appeals hereby passes the following order: **OCT 31 2001**

APPLICATION NO. A02D0097

CRAB HOUSE, INC., D/B/A CRAB HOUSE SEAFOOD RESTAURANT V. THE CITY
OF MARIETTA , GEORGIA

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96009

0110285434

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 31 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 15, 2001

The Court of Appeals hereby passes the following order: **NOV 15 2001**

APPLICATION NO. A02D0098

THEODORE DANIELS V. ALPHA CONSTRUCTION COMPANY ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71008

CV011041AB 256-13-4557

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 15 2001

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

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Clerk.

W. Z. Marti, Jr.

judgment but has obtained no recovery whatever. *Department of Human Resources v. Prince*, 198 Ga. App. 329, 330 (1) (401 SE2d 342) (1991).

But when an appeal in a case enumerated in OCGA § 5-6-34 (a), but not in OCGA § 5-6-35 (a), is initiated by filing an otherwise timely application for permission to appeal pursuant to OCGA § 5-6-35 (b) without also filing a timely notice of direct appeal, the appellate court shall have jurisdiction to decide the case and shall grant the application. OCGA § 5-6-35 (j). And, as the above-captioned application meets all the criteria of OCGA § 5-6-35 (j), this application is hereby GRANTED.

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

NOV 06 2001

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

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

Wil. Z. Marti, III, Clerk.

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

ATLANTA, NOVEMBER 16, 2001

The Court of Appeals hereby passes the following order: **NOV 16 2001**

APPLICATION NO. A02D0100

MATTHEW DOUGLAS WOOD V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94009

00CR072

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 16 2001

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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.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 14, 2001

The Court of Appeals hereby passes the following order:

NOV 14 2001

APPLICATION NO. A02D0101

MICHAEL WAYNE KING V. HOLLY LAWSON, F/K/A HOLLY JEAN KING

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95009

01CV07194

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 14 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

changed to an
Interlocutory!

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

ATLANTA, NOVEMBER 01, 2001

The Court of Appeals hereby passes the following order:

NOV 01 2001

APPLICATION NO. A02D0103

ERIC HARDIN V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70009

47264

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 01 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 05 2001**

**A02D0104. BARRY DEAN ALEXANDER v. SUSAN ANNE FRIHSE, F/K/A
SUSAN ANNE ALEXANDER.**

The motion of Susan Anne Farihse, f/k/a Susan Anne Alexander, to dismiss the above-captioned application for discretionary appeal and for a one thousand dollar sanction pursuant to Court of Appeals Rule 15 is DENIED. And, the application for discretionary appeal, under OCGA § 5-6-35, of Barry Dean Alexander is DENIED.

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

NOV 05 2001

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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.*

W. Z. Martin, Jr., Clerk.

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

ATLANTA, NOVEMBER 29, 0001

The Court of Appeals passed the following order

Case No. A02D0105

JAMES T. ROWE V. THE STATE

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

99-009
97CR065

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 29 2001

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

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

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: December 14, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0506**

JAMES T. ROWE v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A02D0105

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

DEC 20 2001

Clerk, Court of Appeals of Georgia

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

ATLANTA, NOVEMBER 20, 2001

The Court of Appeals hereby passes the following order: **NOV 20 2001**

APPLICATION NO. A02D0106

HILUARD KITCHENS HOMES, INC., ET AL V. LESTER NICHOLSON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93009

2001CV40577 255-76-7262

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 20 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: January 24, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0710**

HILUARD KITCHENS HOMES, INC. v. BUILDERS INSURANCE COMPANY

Clerk, Supreme Court of Georgia

Case No. A02D0106

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 28 2002

Clerk, Court of Appeals of Georgia

W. Z. Martin, III

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

ATLANTA, NOVEMBER 13, 2001

The Court of Appeals hereby passes the following order: **NOV 13 2001**

APPLICATION NO. A02D0107

U.S. ENTERPRISES, INC., ET AL V. W. THOMAS SIGMAN ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71009

2000CV2332I

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 13 2001

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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.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 16, 2001

The Court of Appeals hereby passes the following order: **NOV 16 2001**

APPLICATION NO. A02D0108
KENNETH LAMAR MITCHELL V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91009
88R129

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

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Clerk.



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

ATLANTA, NOVEMBER 06, 2001

The Court of Appeals hereby passes the following order:

NOV 06 2001

APPLICATION NO. A02D0109
LOUIS SPENCER SYMS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94010
CR9302173KA

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

NOV 06 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 01 2001**

A02D0110. CERES MARINE TERMINALS, INC. v. MATILDA WIGGINS et al.

Ceres Marine Terminals, Inc. seeks appellate review of the superior court's September 21, 2001 order affirming a decision of the State Board of Workers' Compensation. An application for discretionary appeal must be filed with this Court within 30 days of entry of the order complained of. OCGA § 5-6-35 (d). The application was filed 33 days after the order complained of was entered. Therefore, this Court lacks jurisdiction to consider the untimely application which is ordered DISMISSED.

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

NOV 01 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 26 2001**

A02D0110. CERES MARINE TERMINALS, INC. v. MATILDA WIGGINS ET AL.

By an order dated November 1, 2001, this Court dismissed the application for discretionary appeal filed in this case as untimely, based on the application not having been filed within 30 days after entry of the appealable judgment. On motion for reconsideration, it appears that the application was, in fact, filed timely, within 30 days after entry of the judgment sought to be appealed. OCGA § 5-6-35 (d); Court of Appeals Rule 4. Therefore, this Court's previous order dismissing the application is vacated, and this application is reinstated.

Upon considering Ceres Marine Terminals, Inc.'s application for discretionary appeal on the merits, the application is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 26 2001**

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

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

W. Z. Martini, Jr., Clerk.

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

ATLANTA, DECEMBER 14, 2001

The Court of Appeals passed the following order

Case No. A02D0110

CERES MARINE TERMINALS, INC., V. MATILDA WIGGINS ET AL

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

95-010
CV010999AB 254-80-5294

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 14 2001**

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

*Witness my signature and the seal of said court
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Clerk.

W. Z. Marti, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: January 2, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0611**

CARES MARINE TERMINALS, INC. v. SAMUEL WIGGINS, III et al.

Clerk, Supreme Court of Georgia

Case No. A02D0110

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 08 2002

Clerk, Court of Appeals of Georgia

W. Z. Mathis, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

NOV 26 2001

A02D0111. DAWSON v. THE STATE.

Hugh Dawson, III has filed a pro se application for “out of time” appellate review of a probation revocation order. The only order included with Dawson’s petition is an order denying his “petition for all trial records” entered on July 10, 2001. Because Dawson’s petition was not filed within 30 days of an appealable order, this court lacks jurisdiction to consider it. OCGA § 5-6-35 (d); see also *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983) (no provision exists authorizing extensions of time for the filing of an application for discretionary appeal directed to this court). Accordingly, Dawson’s application for discretionary appeal is hereby *dismissed*. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia

Clerk’s Office, Atlanta **NOV 26 2001**

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

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

W. Z. Martin, Jr. Clerk.

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

ATLANTA, NOVEMBER 08, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0112
DAVID CRUMPLER V. HENRY COUNTY, GEORGIA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90010
00CV1095M

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 08 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Marti, Jr.

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

ATLANTA, NOVEMBER 26, 2001

The Court of Appeals hereby passes the following order:

NOV 26 2001

APPLICATION NO. A02D0113
CITY OF ATLANTA V. CLARENCE SUMLIN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97010

2001CV39785

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 26 2001

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

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

Clerk.

W. Z. Mathis, Jr.

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

ATLANTA, NOVEMBER 20, 2001

The Court of Appeals hereby passes the following order: **NOV 20 2001**

APPLICATION NO. A02D0114

DETRA J. O'BRYANT V. TERRELL L. HATHCOCK, SR

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70010

00CV1383X

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 20 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 11, 2001

The Court of Appeals passed the following order

Case No. A02D0115

ALL STATE TRUCK STOP, INC., ET AL V. FAIROW TAYLOR, JR

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

98-010
259-76-2024

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 11 2001

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

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

Clerk.

W. Z. Marti, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: December 28, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0575**

ALL STATE TRUCK STOP, INC., et al. v. FAIROW TAYLOR

Clerk, Supreme Court of Georgia

Case No. A02D0115

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

DEC 28 2001

Clerk, Court of Appeals of Georgia

John Z. Matlock

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

ATLANTA, NOVEMBER 20, 2001

The Court of Appeals hereby passes the following order: **NOV 20 2001**

APPLICATION NO. A02D0116

THE STATE V. ORIN HUCKEBA

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99010

96CR63

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 20 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Marti, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 13 2001**

A02D0117. Henderson v. Henderson

Eddie Henderson filed this application for discretionary appeal seeking review of the trial court's order on his petition for declaratory judgment concerning the distribution of the sale of a home pursuant to an out-of-state divorce decree previously domesticated here in Georgia. At issue is the interpretation of the terms of the parties' divorce decree and whether a subsequent quit claim deed modified the distribution set forth in the divorce decree. However, the Supreme Court has exclusive jurisdiction over the interpretation of the terms of a divorce decree. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Because this case would require determining the validity and interpretation of a divorce decree, it is hereby ordered TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 13 2001

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA, NOVEMBER 21, 2001

The Court of Appeals hereby passes the following order: **NOV 21 2001**

APPLICATION NO. A02D0118
KATIE WILSON MCALPINE V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92010

2001CR154

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 21 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 16, 2001

The Court of Appeals hereby passes the following order: **NOV 16 2001**

APPLICATION NO. A02D0119
JOHN DANIEL POPE V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71010

00CR14553R3

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 16 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 20, 2001

The Court of Appeals hereby passes the following order:

NOV 20 2001

APPLICATION NO. A02D0120
THOMAS LEE BUTLER V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91010

93CR16723

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 20 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Marti, Jr.

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

ATLANTA, NOVEMBER 26, 2001

The Court of Appeals hereby passes the following order:

NOV 26 2001

APPLICATION NO. A02D0121

DONNA MARIE SMITH V. CATHY COX ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94011

2000CV21113

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 26 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 08, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0122

M. WAYNE ROBINSON BUILDER DEVELOPMENT, INC., ET AL V. CITY OF ROME,
GEORGIA

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95011

00CV200661

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 08 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.



Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 13, 2001

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed: **NOV 13 2001**

A02D0122. M. WAYNE ROBINSON BUILDER DEVELOPMENT, INC., ET

AL v. CITY OF ROME, GEORGIA

It appearing the order of this Court issued November 8, 2001, 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

NOV 13 2001

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

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

Clerk.

W. Z. Martini, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 13 2001**

A02D0122. M. Wayne Robinson Builder Development, Inc. v. City of Rome, Georgia

Applicants M. Wayne Robinson Builder Development, Inc., Toles, Temple, & Wright, Inc., and Jacob Richardson ("Applicants") filed this application for discretionary appeal seeking review of the trial court's order granting summary judgment to the City of Rome in the City's enforcement action to prevent the demolition of houses located in a historic district. Applicants contend the City's Historic Preservation Zoning Ordinance and any amendments thereto are void; thus, the City is not entitled to prevent the demolition of the houses. Because the issues on appeal do not involve the direct or indirect review of an underlying zoning decision, there is no superior court review of an administrative decision requiring an application for discretionary appeal. *Harrell v. Little Pup Development Construction, Inc.*, 269 Ga. 143, 144 (498 SE2d 251) (1998). Thus, this appeal is directly appealable pursuant to OCGA § 5-6-34 (a) (4). Accordingly, this application is GRANTED pursuant to OCGA § 5-6-35 (j).

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

NOV 13 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 28 2001**

A02D0123. NADINE DOOKRAM v. ANTHONY REDHEAD

Nadine Dookram filed this discretionary application seeking an appeal from the trial court's order awarding temporary custody of the parties' minor child to Anthony Redhead. In its order, the court specifically reserved awarding permanent custody of the child for later determination. Thus, the order appealed from is a temporary order which did not resolve all of the issues in the case. Dookram was accordingly required to follow the procedures for interlocutory review as set forth in OCGA § 5-6-34 (b). *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. App. 587 (408 SE2d 103) (1991); *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996); *Gray v. Springs*, 224 Ga. App. 427 (481 SE2d 3) (1997). The discretionary application statute, OCGA § 5-6-35 (a) (2), does not relieve Dookram from the interlocutory review requirements of a certificate from the trial judge. *Scruggs*, supra at 588 (1).

Because Dookram did not follow the interlocutory review procedures, this Court lacks jurisdiction over this appeal. Accordingly, this appeal is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 28 2001

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

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

W. Z. Mathis, Jr., Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 03 2001**

A02D0124. LARRY RHODES V. JOHN BENSON

Upon consideration of the Motion for Permission to Withdraw the above application, the same is hereby GRANTED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 03 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 05, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0125
WILLE E. CLAYTON V. TERENCE MOORE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97011
E42937

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 05 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 03, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0126

CITY OF ATLANTA V. AGATHA HOYER HECTOR ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70011

2000CV30975

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 03 2001

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, NOVEMBER 27, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0127
RONALD MICHAEL HAYES V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98011

999442334

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 27 2001

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

*Witness my signature and the seal of said court
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Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 03, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0128
A. B. THOMAS V. JIMMY C. BENNETT

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99011

01CV58665 256-96-9645

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 03 2001

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

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

Clerk.

Will. Z. Martini, III

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

ATLANTA, NOVEMBER 30, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0129
ROBERT AUTURE DURHAM V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93011

96B10545

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 30 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: December 19, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0558**

ROBERT AUTURE DURHAM v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A02D0129

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Will. Z. Mat. III

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

ATLANTA, DECEMBER 04, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0130

GEORGIA DEPARTMENT OF COMMUNITY HEALTH V. JAMES FREELS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92011

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

DEC 04 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.



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

ATLANTA, DECEMBER 04, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0131
JAMES TRAVIS BROWN V. COOPER TIRE ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71011

01CV19772

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **DEC 04 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.



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

ATLANTA, NOVEMBER 29, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0132

SEAN C. BOYD ET AL V. HUGH DARGAN ASSOCIATE, INC

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91011

01VS020047F

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 29 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 07, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0133

DAVID S. WEAKLAND, D/B/A WEAKLAND CONSTRUCTION ET AL V. RICHARD PALMER

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94012

01CV532

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 07 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 30 2001**

A02D0134. DAVID TRUETT BOLAND et al v. PETER MICHAEL NORMAN.

On July 26, 2000, David Truett Boland and Judy Boland filed suit against Peter Michael Norman for damages arising from an automobile collision. Norman filed a motion to dismiss the complaint on the grounds that the suit was barred by the applicable statute of limitations and that the state court lacked jurisdiction because of insufficiency of service of process. On October 16, 2001, the trial court entered an order granting the motion to dismiss. On November 14, 2001, the Bolands filed a timely application for discretionary appeal asserting that appellate jurisdiction was properly in this Court because the appeal is taken from a final order pursuant to OCGA § 5-6-34 (a) (1) and Georgia Constitution, Article VI, Section V, Paragraph III. Norman responded asserting, inter alia, that this application should be dismissed as no notice of appeal was filed as required by OCGA § 5-6-38 (a).

Examination of OCGA § 5-6-35 (a) (1) - (11) reveals that the order sought to be appealed does not fall within the category of cases requiring an application for discretionary appeal but rather is an order that is directly appealable under OCGA § 5-6-34 (a) (1). When, as in this case, an appeal in a case enumerated in OCGA § 5-6-34 (a) but not in OCGA § 5-6-35 (a) is initiated by filing an otherwise timely application for permission to appeal pursuant to OCGA § 5-6-35 (b) without also filing a timely notice of appeal, the appellate court shall have jurisdiction to decide the case and shall grant the application. OCGA § 5-6-35 (j). Under the circumstances, this Court is not only authorized but is required to grant the above-captioned application pursuant to OCGA § 5-6-35 (j).

Accordingly, the application is ordered GRANTED. Applicants shall have ten days from the date of this order to file their notice of appeal. OCGA § 5-6-35 (g). The clerk of the state court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 30 2001

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

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

W. Z. Martin, Jr. Clerk.

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

ATLANTA, DECEMBER 03, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0135
JUNE CAROL DENT V. DOLLAR GENERAL CORP

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96012

01CV0373

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 03 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 11 2001**

A02D0136. BELL, et al. v. JACKSON COUNTY, GEORGIA, et al.

Applicants in this zoning case have filed an application for discretionary appeal from the final judgment of the superior court upholding the validity of the Jackson County Zoning Ordinance. They have also filed a notice of direct appeal, contending that the order complained of does not involve superior court review of an administrative decision. See *King v. City of Bainbridge*, 272 Ga. 427, 428 (1) (531 SE2d 350) (2000). We agree. The question presented for review is whether an enforceable zoning ordinance existed during the period in question. Because we conclude that the applicants' direct appeal is valid, their application for discretionary appeal is hereby *dismissed* as superfluous.

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

DEC 11 2001

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

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

 , Clerk.

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

ATLANTA, NOVEMBER 30, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0137
CHRISTOPHER GEORGE TILLERY V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97012
00CR0663

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 30 2001**

*I certify that the above is a true extract fromd
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.

Wil. Z. Martin, Jr.

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

ATLANTA, DECEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0138

FRANK MIGNEAULT V. GEORGIA PEACE OFFICERS ANNUITY ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70012

01V87

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 13 2001

*I certify that the above is a true extract fromd
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Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 04 2001**

A02D0139. LAURIE LEE QUACKENBUSH DALTON v. RICHARD CARLOS VAUGHN.

Defendant Laurie Lee Quackenbush Dalton has filed an application for discretionary appeal of the order of the superior court, entered November 13, 2001, denying her motion to recuse the trial judge in a domestic relations case involving child custody. Dalton's application reveals that her motion to recuse was filed on July 30, 2001, after the trial judge had entered a final order in the domestic relations case and while a motion for new trial regarding that litigation was pending before the court. In fact, one of the allegations in Dalton's motion to recuse is that defendant does not believe that the trial judge can be impartial and unbiased in the consideration of the motion for new trial.

As a general rule, an order denying a motion to recuse is an interlocutory order and an appeal from such an order requires an application for interlocutory review. See *In re Booker*, 186 Ga. App. 614 (367 SE2d 850) (1988). The documentation filed in support of Dalton's application establishes that the order denying her motion to recuse is interlocutory as a motion for new trial remained pending before the trial court, and the primary purpose of the motion to recuse was to disqualify the trial judge from hearing and ruling on that motion. The discretionary appeals statute, OCGA § 5-6-35, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Because Dalton has failed to comply with the procedures for interlocutory review under OCGA § 5-6-34 (b), the above-captioned application for discretionary appeal is ordered DISMISSED.

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

DEC 04 2001

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA, DECEMBER 11, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0140
PETER ELDRIDGE V. MELANIE ANA IRELAND

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99012

001085235

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 11 2001**

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

*Witness my signature and the seal of said court
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Clerk.

W. Z. Marti, Jr.

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

ATLANTA, DECEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0141

NORTHLAND COMMUNICATIONS CORPORATION V. FORTUNE- JHONSON, INC ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93012

2B00CV237

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 13 2001

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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.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0142
JAMAR ROMEL WHITE V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92012

999391205

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 13 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 11, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0143
KEITH SPAIN V. DONALD A. DUDENHOEFFER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71012
99VS0158512

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 11 2001

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

*Witness my signature and the seal of said court
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Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 27 2001**

A02D0145. ELIOTT C. TURNER v. SHEILA A. BELL.

On December 13, 2000, the superior court entered an order extending a temporary protective order, apparently under the Family Violence Act, OCGA § 19-13-1 et seq. On November 15, 2001, Turner filed an application seeking discretionary appeal of that order. Because not filed within 30 days of the entry of the order, decision, or judgment complained of, the application is untimely. OCGA § 5-6-35 (d); see *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

Furthermore, any motion for reconsideration which may have been filed by Turner does not extend the time for filing an application. OCGA § 5-6-35 (d). See also OCGA § 5-6-38 and *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Nor is a denial of a motion for reconsideration appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).

Because the application is untimely, this Court lacks jurisdiction to consider it. Therefore, the application is DISMISSED.

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

NOV 27 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 27 2001**

A02D0146. ELIOTT C. TURNER v. SHEILA A. BELL.

Applicant Elliott C. Turner has filed an application for discretionary appeal from an order denying his motion for reconsideration in a divorce case. Because the Supreme Court has appellate jurisdiction over appeals from decisions entered in divorce cases, Turner's application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, Sec. VI, Para. III (6).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 27 2001

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

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

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

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

ATLANTA, DECEMBER 19, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0147

THE DRIGGS CORPORATION ET AL V. DONNIE SHELTON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

95013

011704933

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 19 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: January 8, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0614**

DRIGGS CORPORATION et al. v. DONNIE SHELTON

Clerk, Supreme Court of Georgia

Case No. A02D0147

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 08 2002

Clerk, Court of Appeals of Georgia

W. Z. Martin, III

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

ATLANTA, DECEMBER 04, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0148

CENTRAL AUTO SALES, INC., V. MARGARET G. MILLER, A/K/A MARGARET G.
SOTO

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96013

00CV35732E

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 04 2001

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

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

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 19 2001**

A02D0149. WANDA FAYE PARKER v. CONRAD FURMAN PARKER, II

Wanda Faye Parker filed this application for discretionary appeal on November 20, 2001, from the trial court's order denying her motion for reconsideration of the court's August 30, 2001, order granting Conrad Furman Parker, II's motion for partial summary judgment in this case involving child support. OCGA § 5-6-35 (b) requires that applicants "specify the order or judgment being appealed." Parker did so, but only indicated that she was appealing from the order denying her motion for reconsideration of the order granting partial summary judgment, although the trial court entered a "final judgment" in the case on November 5, along with its separate order denying her motion for reconsideration.

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Here, the order granting partial summary judgment -- the order properly appealed from -- was entered 82 days prior to the date this application was filed. A motion for reconsideration does not extend the time for filing a discretionary application. OCGA § 5-6-35 (d); see also OCGA § 5-6-38 (a), and *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Further, a denial of a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Because the application is

untimely, this Court lacks jurisdiction to consider it. For these reasons, the application is ordered DISMISSED.

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

DEC 19 2001

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

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

W. Z. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 31 2002**

A02D0149. WANDA FAYE PARKER v. CONRAD FURMAN PARKER, II

By order dated December 19, 2001, this Court dismissed this application for discretionary appeal as untimely, based on the application not having been filed within 30 days after the entry of the appealable judgment. It appears, however, that on the authority of *Culwell v. Lomas & Nettleton Co.*, 242 Ga. 242 (248 SE2d 641) (1978), the application was in fact timely filed, within 30 days after entry of the judgment sought to be appealed. OCGA § 5-6-35 (d); Court of Appeals Rule 32 (b). Accordingly, the applicant's motion for reconsideration is GRANTED, this Court's previous order dismissing the application is VACATED, and the application is REINSTATED. Upon considering the application for discretionary appeal, the application is hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 31 2002

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

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

W. Z. Martz, Jr., Clerk.

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

ATLANTA, DECEMBER 12, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0150

WILLIAM K. MITCHELL ET AL. V. JOHN TERRY BLOUNT JR., ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97013

2001CV746

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 12 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 19, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0151

RED FOX COURIER SERVICES, INC., ET AL V. BROOKE BOWLING

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70013

01A94151

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 19 2001

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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 above written.*

Clerk.

W. Z. Marti, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: January 8, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0616**

RED FOX COURIER SERVICES, INC., et al. v. BROOKE BOWLING

Clerk, Supreme Court of Georgia

Case No. A02D0151

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 08 2002

Clerk, Court of Appeals of Georgia

Wil. Z. Martin, Jr.

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

ATLANTA, DECEMBER 03, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0152

GULF STATES UNDERWRITERS OF LOUISIANA, INC., ET AL V. JIMMY C. BENNETT

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99013

01CV58665

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 03 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

Will Z. Martin, Jr.

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

ATLANTA, DECEMBER 21, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0153

TRAVELERS INSURANCE COMPANY ET AL V. FLORENCE MITCHELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98013

01CV245

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 21 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 03, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0154
DENNIS MCCLAIN V. WILKES TRANSPORT, INC ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93013
01V01373

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 03 2001**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.



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

ATLANTA, DECEMBER 19, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0155

NALLEY AUTOMOTIVE, EMPLOYER, ETAL . V. HENRY HENDERSON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92013

01A99781

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 19 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Mathis, Jr.

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

ATLANTA, JANUARY 16, 2002

The Court of Appeals passed the following order

Case No. A02D0156

LOUISE MURPHY PARTEE V. THOMAS PARTEE, JR

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

71-013
0110567899

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

JAN 16 2002

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

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

Clerk.

W. Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: February 5, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0769**

LOUISE MURPHY PARTEE v. THOMAS PARTEE, Jr.

Clerk, Supreme Court of Georgia

Case No. A02D0156

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, DECEMBER 28, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0157

MILLIKEN & COMPANY ET AL V. JOHN POYTHRESS, JR.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91013

01CV823

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 28 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA,

DEC 27 2001

The Court of Appeals hereby passes the following order:

A02D0158. WORTHY v. THE STATE.

Angel Worthy was convicted and sentenced on a charge of aggravated battery by order signed on November 3, 1998, and entered on February 4, 1999. A motion for new trial was filed on November 17, 1998. The motion as later amended was denied on October 29, 2001. Worthy has filed an application for appeal from this order. Because the discretionary appeal procedure does not apply in this context, Worthy's application is hereby granted as required under OCGA § 5-6-35 (j). Worthy shall have 10 days from the date of this order to file her notice of appeal in the court below. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 27 2001

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA, DECEMBER 13, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0159

JENNIFER SCOTT ET AL V. SHARON BAPTIST CHURCH OF HOSCHTON, INC

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96014

X01CV0543

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 13 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

[Handwritten Signature]

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

ATLANTA, DECEMBER 21, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0161
PERRY GORSUCH ET AL V. CITY OF CRAWFORDVILLE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97014
00CV38

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

DEC 21 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martini, Jr.

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

ATLANTA, DECEMBER 26, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0162

WILLIAM G. CORSON, III V. SUSAN MARIE MARBEL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70014

0100628

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 26 2001

*I certify that the above is a true extract fromd
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 above written.*



Clerk.

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

ATLANTA, DECEMBER 28, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0163
JOHN POYTHRESS, JR. V. MILLIKEN & COMPANY ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91014

01CV823 259-62-0262

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

DEC 28 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, III

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

ATLANTA, JANUARY 04, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0164

WILKINSON COUNTY BOARD OF COMMISSIONERS ET AL V. ROBERT ALLEN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98014

010912648 258-06-0733

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 04 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 19, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0165
CHARLES JUNIOR KIKER V. SOUTHWIRE COMPANY

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99014

01001560 416-74-3917

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 19 2001

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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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 27, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0166

KNIGHT RIDDER D/B/A MACON TELEGRAPH, INC. ET AL V. DOT KEENE A/N/F
STEVEN A. KEENE, DECEASED

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93014

01CV253 255-92-2609

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 27 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

William Z. Martin

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

ATLANTA, FEBRUARY 01, 2002

The Court of Appeals passed the following order

Case No. A02D0166

KNIGHT RIDDER D/B/A MACON TELEGRAPH, INC. ET AL V. DOT KEENE A/N/F
STEVEN A. KEENE, DECEASED

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

93-014
01CV253 255-92-2609

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

FEB 01 2002

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

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

Clerk.

W. Z. Martin, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: February 21, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0858**

KNIGHT RIDDER, d/b/a MACON TELEGRAPH, INC., et al. v. DOT KEENE, a/n/f STEVEN A. KEENE

Clerk, Supreme Court of Georgia

Case No. A02D0166

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 26 2002
2002 FEB 26

Clerk, Court of Appeals of Georgia

Will Z. Martin, III

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

ATLANTA, JANUARY 09, 2002

The Court of Appeals passed the following order

Case No. A02D0167

CHERYL LYNNE BROWN SMITH V. CHESTER GRADY SMITH, JR

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

92-014
00CV70

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 09 2002

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

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

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 07, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0169
JOHN WILLIE SIMS V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71014

98CR51972

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 07 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, DECEMBER 21, 2001

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0170

SHANNON DANIEL V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94015

00CR06361

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 21 2001

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 07, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0171
RESHARD CAMPBELL ECTOR V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95015

00SC11575

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 07 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

Because this application was not timely filed, this court lacks appellate jurisdiction over this application and it is ordered DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

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

DEC 14 2001

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

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

W. Z. Martin, Jr. Clerk.

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

ATLANTA, JANUARY 10, 2002

The Court of Appeals passed the following order

Case No. A02D0172

AYCOX & AYCOX, CLAYTON, INC., ET AL V. JOHN BLEAKLEY FORD, INC

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

96-015
00CV01724

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

JAN 10 2002

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

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

Clerk.

W. Z. Martin, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: January 29, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0744**

PAUL TROY WRIGHT v. JOHN BLEAKLEY FORD, INC.

Clerk, Supreme Court of Georgia

Case No. A02D0172

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 31 2002

Clerk, Court of Appeals of Georgia

Wil. L. Martin, III

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

ATLANTA, JANUARY 08, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0173

THOMAS JOHNSON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90015

98CR05121

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 08 2002**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 11, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0175
MARY HOLMAN ET AL V. MELVIN JOHNSON

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70015

98A45885

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 11 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

Will. Z. Martini, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: January 31, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0752**

MELVIN JOHNSON v. MARY HOLMAN et al.

Clerk, Supreme Court of Georgia

Case No. A02D0175

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FFR 18 2002

Clerk, Court of Appeals of Georgia

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

ATLANTA, JANUARY 10, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0176

UTLIX CORPORATION ET AL V. KEVIN D. TAYLOR

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98015

0110650234

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Marti, Jr.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 05, 2002

The Court of Appeals passed the following order

Case No. A02D0176

UTLIX CORPORATION ET AL V. KEVIN D. TAYLOR

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

98-015
0110650234

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 05 2002

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

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

Clerk.

W. Z. Martin, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: February 22, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0862**

UTLIX CORPORATION et al. v. KEVIN D. TAYLOR

Clerk, Supreme Court of Georgia

Case No. A02D0176

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 26 2002

Clerk, Court of Appeals of Georgia

W. Z. Marti, III

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

ATLANTA, JANUARY 10, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0177

LYNNE STUMP ET AL V. ENRIQUE S. ABELL ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99015

2000CV25360

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 10 2002**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 22, 2002

The Court of Appeals passed the following order

Case No. A02D0177

LYNNE STUMP ET AL V. ENRIQUE S. ABELL ET AL

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

99-015
2000CV25360

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

JAN-22 2002

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

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

Clerk.

Wil. Z. Martini, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: February 7, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0789**

LYNN STUMP et al. v. ENRIQUE S. ABELL et al.

Clerk, Supreme Court of Georgia

Case No. A02D0177

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

FEB 18 2002

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

ATLANTA, JANUARY 16, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0178
SOUTHLAKE MITSUBISHI ET AL V. KEITH G. LAUFENBERG

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

92015

2001CV43452

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 16 2002

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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 above written.*

Clerk.

Will. Z. Marti, Jr.

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

ATLANTA, JANUARY 16, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0179

DART CONTAINER CORPORATION V. IRMA J. MOORE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

71015

01CV85893

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 16 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 10, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0180

GIFTSTAR, INC. V. WERNER FRANK ENTERPRISES, INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91015

2000CV19928

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 16, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0181
DEBORAH CAROL PEERY V. HARRY DANIEL PEERY

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94016
01V0595

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 16 2002**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 11 2002

A02D0182. STANLEY LEWIS JONES v. JAMES AVERA et al.

On December 26, 2001, plaintiff Stanley Lewis Jones filed an application under OCGA § 5-6-35 and OCGA § 42-12-8 seeking a direct appeal of the order of the superior court, entered on October 3, 2001, granting defendant Kirby Wincey, Jr.'s motion to dismiss and defendants James Avery and Dale Townsend's motion for summary judgment. Under OCGA § 5-6-35 (d), an application for discretionary appeal is required to be filed within 30 days of the entry of the order decision, or judgment sought to be appealed. This Court lacks jurisdiction over this application because it was not timely filed. See OCGA § 5-6-35 (d); *Gates v. Yeager*, 232 Ga. App. 91 (498 SE2d 372) (1998). Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 11 2002

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA, JANUARY 17, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0183
KIMBERLYN MAUND V. MITCHELL MAUND

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96016

01CV13753

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 17 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 24, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0184
RICKY CARROL MATHIS V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90016

95CC191

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

JAN 24 2002

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

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

Clerk.

W. Z. Mathis, Jr.

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

ATLANTA, JANUARY 10, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0185
WELDON HALL V. JOHN MORRIS ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97016

01CI865

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 24, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0186

JYOTIN BHUTWALA ET AL V. M. & H. VALUE BUILDERS, INC., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70016

1999CV13664

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 24 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 10, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0187

JOE MCCARTHY V. JOAO MELO

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98016

99SC0209

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

Will. Z. Martin, III

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

ATLANTA, JANUARY 23, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0188
DAVID JEROME BODNE V. RACHEL ANN BODNE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99016

99V01622

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 23 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Marti, Jr.

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

ATLANTA, JANUARY 22, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0189

KOREY JOHNSON V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

93016

13965

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 22 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 24, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0190

LOCKHEAD MARTIN CORPORATION ET AL V. ALVIE GRESHAM

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92016

01I763405

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 24 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, FEBRUARY 11, 2002

The Court of Appeals passed the following order

Case No. A02D0190

LOCKHEAD MARTIN CORPORATION ET AL V. ALVIE GRESHAM

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

92-016
01I763405

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

FEB 11 2002

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

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

Clerk.

Will Z. Martin, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 4, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0898**

LOCKHEED MARTIN CORPORATION et al. v. ALVIE GRESHAM

Clerk, Supreme Court of Georgia

Case No. A02D0190

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

MAR 12 2002

COURT OF APPEALS OF GEORGIA

334 STATE JUDICIAL BUILDING

ATLANTA, GEORGIA 30334

(404) 656-3450

Business Hours: Monday - Friday, 8:30a.m. to 4:30p.m

NOTICE OF DOCKETING

**A P P L I C A T I O N F O R
D I S C R E T I O N A R Y A P P E A L**

Ms. Mary Claire Wolf
ATTORNEY AT LAW
291 ALEXANDER STREET
MARIETTA GA 30060

IMPORTANT - NOTICE OF FILING IN THE COURT OF APPEALS OF GEORGIA

APPLICATION NUMBER: A02D0191 DATE OF DOCKETING: DECEMBER 28, 2001

STYLE: EVANGELINE ROBINSON V. JESSE M. ROBINSON

was filed today in the Court of Appeals of Georgia. The appellee has 10 days from the above filing date to file a response.

This application will be reviewed and the Court of Appeals shall issue an order granting or denying such an appeal within 30 days of the date on which the application was filed. OCGA 5-6-35.

need copy of order

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 18, 2002

The Court of Appeals passed the following order

Case No. A02D0191

EVANGELINE ROBINSON V. JESSE M. ROBINSON

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

71-016
01CV2789

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 18 2002

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

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

Clerk.

Will. Z. Martin, III

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 11, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0927**

EVANGELINE ROBINSON v. JESSE M. ROBINSON

Clerk, Supreme Court of Georgia

Case No. A02D0191

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JANUARY 31, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0192
DIXIE OIL COMPANY, INC., ET AL V. JOANN HESTERS

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

91016

2001CV284

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 31 2002**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, FEBRUARY 21, 2002

The Court of Appeals passed the following order

Case No. A02D0192

DIXIE OIL COMPANY, INC., ET AL V. JOANN HESTERS

Upon consideration of the motion for reconsideration filed
in this case, it is ordered that it be hereby denied.

91-016
2001CV284

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 21 2002

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

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

Clerk.

Wil. Z. Marti, Jr.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

Docketing Date: March 13, 2002

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S02C0945**

DIXIE OIL COMPANY, INC., et al. v. JOANN HESTERS

Clerk, Supreme Court of Georgia

Case No. A02D0192

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 14 2002

Clerk, Court of Appeals of Georgia

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

ATLANTA,

The Court of Appeals hereby passes the following order:

A02D0193. TERESA STARR LOWMAN v. HENRY BEAUFORD LOWMAN.

Because this discretionary application challenges a final judgment and decree of divorce, it is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, Sec. VI, Para. III (6).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2002

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

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

W. Z. Martin, Jr., Clerk.

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

ATLANTA, JANUARY 24, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0194
ARMARD JEROME DAVIS V. THE STATE

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

95017

00CR156

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 24 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

Will Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A02D0195. Gwinnett County v. Blaney

Gwinnett County and the Gwinnett County Board of Commissioners timely filed this application for discretionary appeal seeking review of the trial court's order on Gerald N. Blaney, Jr.'s petition for declaratory judgment. However, the order the County and the Board seek to have this Court review is not subject to the discretionary appeal requirements. OCGA § 5-6-35 (a). Because the lower court has confirmed that the County and the Board has already filed a timely notice of appeal in the trial court, OCGA § 5-6-35 (j) does not apply here. Accordingly, this application for discretionary appeal is deemed superfluous and is therefore DISMISSED for lack of jurisdiction.

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

JAN 10 2002

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

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

....., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 16 2002**

A02D0196. ANGELO B. PERRY v. THE STATE OF GEORGIA

Angelo B. Perry filed this discretionary application on January 7, 2002, from the trial court's order denying his motion for reconsideration of the court's September 24, 2001 order¹ denying his motion to set aside judgment. An application for discretionary appeal, however, must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). The denial of the motion to set aside judgment -- the order properly appealed from -- was entered 105 days prior to the date this application was filed. Although Perry filed a motion asking the trial court to reconsider its decision, a motion for reconsideration does not extend the time for filing an application. OCGA § 5-6-35 (d); See also OCGA § 5-6-38 and *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Further, a denial of a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Because the

¹Perry did not include a copy of this order with his application, but the order denying the motion for reconsideration specifies that the order denying the motion to set aside judgment was entered September 24, 2001.

application is untimely, this Court lacks jurisdiction to consider it. For these reasons, the application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 16 2002**

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

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

W. Z. Marti, Jr. Clerk.

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

ATLANTA, JANUARY 22, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0197
CHRISTOPHER BOTT V. DONALD A. JACOBS ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

97017

1999CV14843

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 22 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

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

ATLANTA, JANUARY 31, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0198

BERRIEN COUNTY BOARD OF COMMISSIONERS ET AL V. LARRY FUTCH

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70017

01C414

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 31 2002

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A02D0199. BYELICK v. MICHEL HUBERLIN U.S.A., INC.

Plaintiff Thomas M. Byelick seeks a direct appeal from an order directing him to post a pretrial supersedeas bond in the amount of \$250,000.00 and to preserve defendant's assets in his possession, or, in the alternative, to deliver to defendant all assets belonging to it as well as all of its corporate records. Immediate review of this order requires the interlocutory appeal procedure. *Pruett v. Commercial Bank*, 211 Ga. App. 692 (440 SE2d 85) (1994). Since Byelick has failed to secure a timely certificate of immediate review as required, this application is dismissed for lack of jurisdiction. *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Byelick's motion for order of supersedeas filed in connection with this application is dismissed as moot.

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

FEB 05 2002

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

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

William Z. Martin, III
....., Clerk.

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

ATLANTA, JANUARY 31, 2002

The Court of Appeals hereby passes the following order:

APPLICATION NO. A02D0200
TIMOTHY HOGSED V. ATLANTA TOYOTA ET AL

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

99017

01A110511

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 31 2002**

*I certify that the above is a true extract fromd
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 above written.*

Clerk.

W. Z. Martin, Jr.