

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

ATLANTA, SEPTEMBER 10, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0001

OAKWOOD ACCEPTANCE CORPORATION, LLC, F/K/A OAKWOOD ACCEPTANCE  
CORPORATION V. ANDERSON PROPERTIES DEVELOPMENT

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

95001

1B02CV101T

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 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 written.*

*Clerk.*

*Will Z. Martin, Jr.*

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

ATLANTA,

SEPTEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0002

JEFFERY MILLS V. HAUL STORAGE UNITED SYSTEM RENTAL

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

96001

02VS032293

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **SEP 13 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 written.*

*Clerk.*



# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 28 2002**

**A03D0003. ZACHARY B. TAYLOR v. STARR S. HERNDON ET AL.**

Zachary B. Taylor filed a suit for damages arising out of an automobile collision against defendants Starr S. Herndon et al. On August 6, 2002, the superior court entered an order holding Taylor in contempt of court and dismissing his complaint with prejudice. Taylor filed a timely application seeking the grant of a discretionary appeal under OCGA § 5-6-35 (j).

OCGA § 5-6-35 (j) states that 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 appeal, the appellate court shall have jurisdiction to decide the case and shall grant the application. Taylor's application reveals on its face that this case is not one of the type of cases enumerated in OCGA § 5-6-35 (a); and Taylor has not filed a notice of appeal even though the order sought to be appealed constitutes a final judgment under OCGA § 5-6-34 (a) (1) and (2). Accordingly, Taylor's application is granted under OCGA § 5-6-35 (a) (j); thereafter, this appeal shall proceed as provided in OCGA § 5-6-35 (g).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 28 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.*

*Will Z. Martin, III*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **SEP 10 2002**

**A03D0004. WALTER DANIEL EVERHART, JR. v. SANDRA JOY  
EVERHART.**

Walter Daniel Everhart, Jr. seeks an appeal from the trial court's denial of his motion for relief of several kinds, including the setting aside of a final judgment and decree of divorce, and a new trial of the divorce case. However, because this action is ancillary to the parties' divorce proceeding, a matter within the Supreme Court's appellate jurisdiction, this application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const of 1983, Art VI, Sec. VI, Par III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 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.*

*Walter Z. Martin, Jr.*, Clerk.

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

ATLANTA, SEPTEMBER 12, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0005  
EPIC PROPERTIES, INC. A/K/A EP BARROW PROPERTY CO  
V. JANICE MAY EARNEST

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

93001

00C4667

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 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*

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

ATLANTA, AUGUST 29, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0006

GEORGIA DEPARTMENT OF PUBLIC SAFETY ET AL V. CHARLES  
S. HAYES, JR.

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

97002

2002CV52683

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 29 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, SEPTEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0007

FRANK COBURN V. THE STATE

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

99001

99CR16279

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **SEP 13 2002**

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the minutes of the Court of Appeals of Georgia*

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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:** September 18, 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 **S03C0073**

FRANK COBURN

Clerk, Supreme Court of Georgia

Case No. A03D0007

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**SEP 19 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:* **SFP 09 2002**

**A03D0008. DELORES NEELY v. THE SALVATION ARMY ET AL.**

Delores Neely, pro se, filed this application for discretionary appeal. She initially filed her application on July 19, 2002. The Clerk of this Court wrote Ms. Neely informing her that, without a stamped filed copy of the order appealed from, the Court could not docket her application. Ms. Neely then resubmitted the application on August 19, 2002, and included a stamped-filed copy of a May 22, 2002 order from the State Court of Fulton County, which compelled her to appear for a deposition. To the extent that she appeals this order, this Court does not have jurisdiction because it is an interlocutory order requiring a certificate of immediate review. See OCGA § 5-6-34 (b). Moreover, it is untimely. *Id.* In her application, however, she indicates that she is appealing from the State Court of Fulton County's final order in this case in favor of The Salvation Army. Because Neely has failed to include with her application a stamp-filed copy of the order she is apparently appealing from, this Court does not have jurisdiction to consider the appeal. This application is accordingly hereby DISMISSED.

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

**SEP 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.*

*W. Z. Martin, III*, Clerk.

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

ATLANTA,            OCTOBER    11, 2002

*The Court of Appeals passed the following order*

Case No. A03D0008

DELORES NEELY V. THE SALVATION ARMY ET AL

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

91-001  
01VS020297C

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    OCT 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, 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 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 **S03C0310**

DELORES NEELY v. SALVATION ARMY et al.

Clerk, Supreme Court of Georgia

Case No. A03D0008

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

NOV 02 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:* **SEP 09 2002**

**A03D0009. WILLIAM DAVIS v. THE STATE.**

William Davis filed this application for discretionary appeal seeking review of the trial court's order denying his motion to set aside void judgment. The application does not contain a stamped "filed" copy of the order sought to be appealed as required by Court of Appeals Rule 31 (d). On August 20, 2002, this Court ordered Davis to supplement his application with a stamped "filed" copy of the order within 10 days or the application would be dismissed. No stamped "filed" order has been filed within the time allowed. Therefore, this application is ordered DISMISSED.

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

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

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

ATLANTA, SEPTEMBER 12, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0010

MARION HARDY DIXON V. GENE STEPHENS COMPANY, 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.

94001

2002CV1412

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2002**

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the minutes of the Court of Appeals of Georgia*

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*Clerk.*

*W. Z. Martin, Jr.*

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

ATLANTA, SEPTEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0011

SCOTT ANDERSON V. THE STATE

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

92001

CRBC970923

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 13 2002**

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the minutes of the Court of Appeals of Georgia*

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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:* **SEP 06 2002**

**A03D0012. PETER KEITH HOGENCAMP v. MARIANA J. HOGENCAMP**

Peter Keith Hogencamp filed this application for discretionary appeal from the denial of his motion to set aside an order that extended for six months the parties' consent order regarding custody and child support. But the order denying the motion to set aside is not a final judgment. Therefore, Hogencamp should have followed the interlocutory appeal procedure. See OCGA § 5-6-34 (b). The discretionary application statute, OCGA § 5-6-35, does not allow a party to ignore the applicable interlocutory application procedures of OCGA § 5-6-34 (b) when seeking appellate review. *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996). Therefore, Mariana J. Hogencamp's motion to dismiss this application is GRANTED and the application is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 06 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.*

*Will. Z. Martin, III*, Clerk.

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

ATLANTA, SEPTEMBER 10, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0013  
JIMMIE LEE VICKERS V. THE STATE

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

71001

020131

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **SEP 10 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 written.*

*Clerk.*

*W. Z. Martin, Jr.*

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

ATLANTA,                    SEPTEMBER 16, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0014  
DAVID REED YOUNG V. SHARON GAIL YOUNG

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

95002

02A39460

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

**SEP 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 written.*

Clerk.

*Will Z. Martin, III*

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

ATLANTA, SEPTEMBER 18, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0015  
DOUGLAS T. SMITH V. HOOSHANG NASSERAZAD

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

96002

1999CV06984

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

**SEP 18 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,            OCTOBER    04, 2002

*The Court of Appeals passed the following order*

Case No. A03D0015

DOUGLAS T. SMITH V. HOOSHANG NASSERAZAD

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

96-002  
1999CV06984

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    OCT 04, 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*

A handwritten signature in black ink, appearing to read "W. T. Smith, Jr.", written over a horizontal line.

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, 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 **S03C0271**

DOUGLAS T. SMITH v. HOOSHANG NASSERAZAD

Clerk, Supreme Court of Georgia

Case No. A03D0015

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 28 2002

Clerk, Court of Appeals of Georgia

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

ATLANTA,                      SEPTEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0016

PETER TOWNSEND V. THE STATE

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

98002

2002112

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 13 2002**

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*Clerk.*



Court of Appeals  
of the State of Georgia

ATLANTA, SEPTEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0017

MICKEY COOK V. THE STATE

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

93002

2002109

*Court of Appeals of the State of Georgia*  
Clerk's Office, Atlanta **SEP 13 2002**

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Clerk.

*Will Z. Martin, III*

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

ATLANTA,                      SEPTEMBER 19, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0018

TINA C. ANDERSON F/K/A TINA C. KINSLEY V. MICHAEL L. KINSLEY

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

99002

2001V69435L

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

**SEP 19 2002**

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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:** September 30, 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 **S03C0142**

TINA C. ANDERSON et al. v. MICHAEL L. KINSLEY

Clerk, Supreme Court of Georgia

Case No. A03D0018

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**OCT 03 2002**

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 24, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0019  
CHRISTINA ROBINSON 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.

91002

2002CV16396

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 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.*

*William Z. Martin, III*

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

ATLANTA, SEPTEMBER 18, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0020  
BENJAMIN PATERSON, JR. V. THE STATE

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

90002

49502

50632

53633

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

**SEP 18 2002**

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Clerk.

*Will Z. Martin, Jr.*

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

ATLANTA, SEPTEMBER 27, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0021  
TERRY HOPPER V. WILLIAM WETHERHOLT

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

94002

02CV0511

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 27 2002**

*I certify that the above is a true extract fromd  
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*Witness my signature and the seal of said court  
hereto affixed the day and year last above 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:** October 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 **S03C0158**

TERRY HOPPER v. WILLIAM WETHERHOLT

Clerk, Supreme Court of Georgia

Case No. A03D0021

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**OCT 09 2002**

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 17, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0022  
JURUSHA WATKINS V. DEKALB COUNTY ET AL

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

92002

0248327

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

**SEP 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.

*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:** October 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 **S03C0151**

JURUSHA WATKINS v. DEKALB COUNTY et al.

Clerk, Supreme Court of Georgia

Case No. A03D0022

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**OCT 09 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:*

**SEP 20 2002**

**A03D0023. MID-GEORGIA ENVIRONMENTAL MANAGEMENT GROUP,  
L.L.L.P. v. MERIWETHER COUNTY, GEORGIA ET AL.**

Mid-Georgia Environmental Management Group, L.L.L.P. seeks an appeal from the superior court's order, inter alia, denying its petition for a writ of mandamus. Because the Supreme Court has appellate jurisdiction in mandamus cases, the application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (5); OCGA § 9-6-28.

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

**SEP 20 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.*

*Will Z. Martin, III*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA, SEPTEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0024

KENDRALL WILLIS V. THE STATE

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

71002

01R40

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 13 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 written.*

*Clerk.*

*W. Z. Mathis, Jr.*

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

ATLANTA, SEPTEMBER 27, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0025  
JAMES WESLEY SAVAGE V. THE STATE

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

95003  
011661

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **SEP 27 2002**

*I certify that the above is a true extract fromd  
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*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, SEPTEMBER 30, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0026

CLASSIC CITY HOUSING, INC., V. MADISON COUNTY, GEORGIA: ET AL

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

96003

01MV681H

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **SEP 30 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:* **OCT 04 2002**

**A03D0027. GEORGE LEE DINKINS v. THE STATE**

Relying on the superior court's order granting his motion for an out-of-time discretionary appeal, George Lee Dinkins seeks discretionary review of the revocation of his probation. We cannot consider Dinkins' application because the superior court's grant of an out-of-time discretionary appeal is insufficient to authorize the filing of an otherwise untimely application for discretionary appeal. *Department of Offender Rehabilitation v. Meeks*, 165 Ga. App. 269 (299 SE2d 757) (1983). Therefore, this application for discretionary appeal is DISMISSED as untimely filed.

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **OCT 04 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.*

*Will. Z. Martin, III*, Clerk.

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 01 2002**

**A03D0028. LARRY HAMMETT v. DIANE HAMMETT**

Larry Hammett filed this discretionary application from the trial court's order declining to find him in contempt for failure to comply with the child support provisions of the parties' settlement agreement, but enforcing the provisions of the agreement by entering a money judgment in favor of Diane Hammett. A contempt proceeding based on the failure to comply with the child support 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). Accordingly, this application is hereby TRANSFERRED to the Supreme Court.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.

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

ATLANTA, SEPTEMBER 24, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0029  
WAL-MART STORES, INC. V. JOHN P. WHEELER

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.

93003

2001CV0120

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

**SEP 24 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.



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

ATLANTA,                      OCTOBER      09, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0030  
REALM NATIONAL INSURANCE COMPANY ET AL V.  
WILLIAM GRAVES ET AL

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

99003

02A61321

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 09 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. L. Martin, III*

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

ATLANTA, SEPTEMBER 19, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0031

MICHELLE DURHAM F/K/A GIPSON V. ARLIE JEROME GIPSON

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.

91003

2001RCD783

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 19 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 written.*

*Clerk.*

*Will. Z. Martin, III*

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

ATLANTA, SEPTEMBER 26, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0032

JEANNE M. SMITH V. MARK E. SMITH

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

90003

00CV2104M

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

**SEP 26 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,                      OCTOBER      04, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0033

DAVID MIMS V. JANET MIMS

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

94003

2000CVD1584

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 04 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 written.*

*Clerk.*

*Will Z. Martin, Jr.*

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

ATLANTA, SEPTEMBER 24, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0034  
DAVID W. DENNY, II V. THE STATE

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

92003  
35695T

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 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, III*

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

ATLANTA,                      OCTOBER      03, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0035  
GREGORY GARDNER 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.

70003

00SC08528

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 03 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, III*

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

ATLANTA,                      OCTOBER      08, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0036  
GERGORY GARDNER 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.

70004

00SC03016

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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 written.*

*Clerk.*



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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 08 2002**

**A03D0037. COMMERCIAL CREDIT COUNSELING SERVICES v. METRO  
WIRE 7 CABLE - ATLANTA.**

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED. Respondent's motion for frivolous appeal penalty is likewise DENIED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **OCT 08 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 S. Martin*, Clerk.

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

ATLANTA,            OCTOBER    02, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0038

DOUGLAS COUCH V. DEPARTMENT OF AGRICULTURE, ET AL

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

95004

2001CV46388

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 02 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:*

**OCT 07 2002**

## **A03D0039. RELIABLE BONDING COMPANY, INC. v. THE STATE**

Reliable Bonding Company, Inc. filed this application for discretionary appeal from the superior court's order denying its motion to set aside a judgment of forfeiture absolute on the ground that it did not receive notice of the September 26, 2001 order until February 6, 2002, and thus was deprived of the opportunity to pursue relief from the judgment as a surety under OCGA § 17-6-72. However, "motions to set aside brought on the grounds that the court failed to notify the losing party of its decision are cognizable as motions to correct a clerical error pursuant to OCGA § 9-11-60 (g) and are properly the subject of a direct appeal." *Downs v. C.D.C. Fed. Credit Union*, 224 Ga. App. 869 (1) (481 SE2d 903) (1997), citing *Leventhal v. Moseley*, 264 Ga. 891, 892 (453 SE2d 455) (1995).

Reliable Bonding Company, Inc. has filed a timely application for discretionary appeal rather than a notice of appeal. When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j).

Because this application falls under OCGA § 5-6-35 (j), it is hereby GRANTED. Reliable Bonding Company, Inc. shall have ten (10) days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). 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 07 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, III*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA, SEPTEMBER 30, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0040  
BENJAMIN R. JONES V. THE STATE

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

98004

SU2000CR313

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 30 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 written.*

*Clerk.*

*Will. Z. Martin, III*

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

ATLANTA,            OCTOBER    07, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0041  
DAVID T. LEWIS V. LISA M. SCRUGGS

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.

97004

99V65005N

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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 written.*

*Clerk.*

*Will. Z. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 04 2002**

**A03D0042. WALKER v. THE STATE.**

Anthony Gerald Walker filed an application for discretionary appeal from an order of the superior court denying his "Motion for Order to Correct Record or Vacate, Set-Aside Criminal State Sentence, via Doctrine 'Plain Error.'" As stated in the superior court's order, the substantive issue raised in Walker's motion was previously reviewed by this court in *Walker v. State*, 204 Ga. App. 269 (419 SE2d 542) (1992). "It is axiomatic that the same issue cannot be relitigated *ad infinitum*. The same is true of appeals of the same issue on the same grounds. Our determination [in the earlier appeal] is *res judicata*; the instant appeal is therefore barred, and we are without jurisdiction to review this same matter for a second time." (Citations omitted.) *Horton v. State*, 189 Ga. App. 370 (375 SE2d 668) (1988). Accordingly, Walker's application for a second appeal raising the same issue raised in his earlier appeal is hereby *dismissed* for lack of jurisdiction.

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

**OCT 04 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.

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 28, 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 **S03C0281**

ANTHONY GERALD WALKER v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0042

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**OCT 30 2002**

Clerk, Court of Appeals of Georgia

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

ATLANTA,            OCTOBER    09, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0043  
WILLIAM GRAVES V. TOM SCRIBBINS ET AL

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

99004

02A61321

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 09 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,            OCTOBER    03, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0044  
ARCHITECTURAL SALES & CONTRACTING, INC., ET AL  
V. PAUL SCHUMACHER

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

91004

021396524

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 03 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 written.*

*Clerk.*

*Will. Z. Martin, III*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**OCT 15 2002**

**A03D0045. STEVEN L. LASSITER v. THE STATE**

Steven L. Lassiter was tried in the probate court in a bench trial on stipulated facts and found guilty of violating OCGA § 40-6-391. He filed a petition for writ of certiorari to the superior court, which dismissed the petition on the basis that Lassiter had not included a superior court judge's sanction. Lassiter filed this application for discretionary appeal, contending that, under OCGA § 5-4-2, no sanction is required for petitions for writ of certiorari from decisions of probate courts. Appeals of decisions of superior courts reviewing decisions of probate courts, however, are specifically excluded from the discretionary appeal requirements set forth in OCGA § 5-6-35 (a) (1). See *Power v. State*, 231 Ga. App. 335, 336 (499 SE2d 356) (1998). Thus, Lassiter's appeal is directly appealable. Accordingly, this appeal is ordered GRANTED pursuant to OCGA § 5-6-35 (j).

Lassiter shall have ten days from the date of this order to file a notice of appeal with the trial court. The Clerk of the Superior Court is directed to include a copy of this order in the appeal record transmitted to this Court.

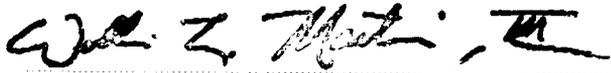
*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 15 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,            OCTOBER    09, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0046

MICKEY L. STEPHENSON V. ROPER PUMP 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.

94004

02CV0397

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 09 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 written.*

*Clerk.*

*Will. Z. Martin, Jr.*

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

ATLANTA,            OCTOBER    16, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0047

JERED INDUSTRIES, INC., ET AL V. STANLEY E. PEARSON

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

0201102

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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 written.*

*Clerk.*

*W. Z. Martin, III*

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

ATLANTA,            OCTOBER    18, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0048

ATC HEALTHCARE SERVICE, INC., ET AL V. RITA C. ADAMS

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.

71004

2002CV0141

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 18 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 written.*

*Clerk.*

*William Z. Martin, III*

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

ATLANTA,            OCTOBER    08, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0049

ATLANTA INDEPENDENT SCHOOL SYSTEM V. AARON TOOKES

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

95005

2002CV47514

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.*

*Will Z. Martin, III*

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

ATLANTA,            OCTOBER    16, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0050  
MECHANICAL MAINTENANCE, INC./ITT HARTFORD  
V. FRANK M. YARBROUGH, JR., 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.

96005

2002RCCV462

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.

*Will. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 22 2002**

**A03D0051. HIGH VOLTAGE VENDING v. ENNIS G. ODOM.**

The above-caption application for discretionary appeal is GRANTED only as to the following issues: "Whether substantial compliance with the notice of hearing provision of OCGA § 34-9-102 (a) is sufficient to give adequate notice of hearing and, if so, whether the trial court erred in ruling that there was substantial compliance with the notice of hearing provisions of OCGA § 34-9-102 (a)."

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).

Ennis G. Odom's motion to dismiss appeal is DENIED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.*

*W. Z. Martin, III*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**OCT 16 2002**

**A03D0052. CHARLES VINSON SLAUGHTER v. THE STATE.**

Charles Vinson Slaughter filed this discretionary application seeking review of the denial of his "Extraordinary Motion for Special Demurrer," contending that his conviction for murder was void. However, in *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984), the Supreme Court directed that all appeals in murder cases shall be decided by that Court. Therefore, Slaughter's application is ordered TRANSFERRED to the Supreme Court.

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

**OCT 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. Meitz, III* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

OCT - 7 2002

## **A03D0053. LAM v. THE STATE.**

On September 24, 2002, Binh T. Lam filed an application for discretionary appeal from a felony conviction and sentence entered on October 20, 2000. The discretionary appeal procedure does not apply in this case. See OCGA § 5-6-35 (a). Moreover, no application for discretionary appeal may be considered unless it is timely filed as provided under OCGA § 5-6-35 (d). Because Lam's application was not filed within 30 days of the judgment complained of, his 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*      OCT - 7 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,            OCTOBER    09, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0054

WEBB SUPPLY COMPANY ET AL V. CHRIS HOLBERT D/B/A    HOLBERT ELECTRIC

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

99005

02CV0199

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 09 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.*

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, 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 **S03C0283**

WEBB SUPPLY COMPANY et al. v. IVO H. MEIJERINK et al.

Clerk, Supreme Court of Georgia

Case No. A03D0054

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**OCT 30 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:*      **OCT 23 2002**

**A03D0055. AIRPORT GROUP INTERNATIONAL, INC. v. LILLIE MITCHELL, EXECUTRIX OF THE ESTATE OF DAVID MITCHELL, SR., DECEASED**

Lillie Mitchell, Executrix of the Estate of David Mitchell, Sr., Deceased, sued Airport Group International, Inc., which failed to file an answer in the case. Default judgment was entered. After a trial on the issue of damages, with only the plaintiff presenting evidence, the trial court entered judgment in favor of the plaintiff for \$7,000,000.00. Upon learning of the judgment, Airport Group International, Inc. filed a motion for new trial and a motion to set aside the judgment. In a single order, the trial court denied both motions. Airport Group International, Inc. filed this application for discretionary appeal from this order.

The denial of a motion to set aside under OCGA § 9-11-60 (d) is subject to the discretionary appeal procedure. OCGA § 5-6-35 (a) (8); *MMT Enterprises, Inc. v. Cullars*, 218 Ga. App. 559, 561 (2) (462 SE2d 771) (1995). But the denial of a motion for new trial is directly appealable. A directly appealable order denying a motion for new trial does not become subject to the application requirements of OCGA § 5-6-35 when the appellant is also seeking to appeal from the denial of a motion to set aside. *Martin v. Williams*, 263 Ga. 707 (438 SE2d 353) (1994). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements.

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. In this case, however, the applicant filed a notice of

appeal in the state court on September 25, 2002.<sup>1</sup> Because the applicant filed a timely notice of appeal, OCGA § 5-6-35 (j) does not apply. This application is therefore hereby DISMISSED.

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

**OCT 23 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. Mathis, III*, Clerk.

---

<sup>1</sup>According to a note in its application, the applicant filed a notice of direct appeal in the State Court of Fulton County, and the Clerk of this Court confirmed that information by telephone with the Clerk of the state court.

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

ATLANTA,            OCTOBER    08, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0056  
MARCUS COOK V. CYNTHIA MURRAY, ET AL

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

90005

02A46328

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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 written.*

*Clerk.*

*Will Z. Martin, III*

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

ATLANTA,            OCTOBER    18, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0057

ROBERT BROWN V. THE STATE

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

94005

2002114

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

**OCT 18 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,            OCTOBER    23, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0058  
SHIRLEY CLARK V. HIBINO CORP., ET AL

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

92005

02CV1504B

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

**OCT 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.*

*Will Z. [Signature]*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*      **OCT 07 2002**

## **A03D0059. CORT P. MITCHELL v. THE STATE**

Cort P. Mitchell filed this application to appeal his misdemeanor conviction for running a red light in violation of OCGA § 40-6-20. Mitchell's conviction is a directly appealable final judgment. When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j). Because this application falls under OCGA § 5-6-35 (j), it is hereby GRANTED. Mitchell shall have ten (10) days from the date of this order to file a 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*      **OCT 07 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 S. Mitchell*, Clerk.

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 18 2002**

**A03D0060. JEROME FOSTER v. THE STATE**

Jerome Foster filed this application for discretionary appeal from the superior court's order denying his "Extraordinary Motion for a Special Demurrer Where the Indictment was Absolutely Void," and "Declaration in Support of Loss of Jurisdiction." Because Foster was convicted of murder, his application is hereby TRANSFERRED to the Supreme Court for disposition as required under *State v. Thornton*, 253 Ga. 524 (322 SE2d 711) (1984).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 10 2002**

**A03D0061. LASSIE BRINSON v. JOYCE GRADY OWEN.**

On September 16, 2002, Lassie Brinson filed an application for discretionary appeal in the Supreme Court of Georgia. The Supreme Court transferred the application to this Court for disposition. Brinson sought to appeal an order granting dispossession entered in the superior court on August 12, 2002.

OCGA § 44-7-56 provides that an appeal from any dispossession judgment must be filed within seven days of the date the judgment was entered. Because the notice of appeal was not filed within seven days of the entry of the dispossession judgment, this application is untimely and this Court lacks jurisdiction to consider the appeal. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). This application also is untimely under OCGA § 5-6-35 (d) because it was not filed within 30 days of the date of entry of the order sought to be appealed.

Accordingly, this application is ordered DISMISSED.

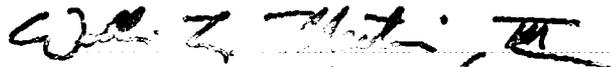
*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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:* **OCT 24 2002**

**A03D0062. CLARA J. EDGEMAN v. SOUTHERN METAL INDUSTRIES ET AL.**

This application for discretionary appeal in a workers' compensation case seeks review of an order granting the employer's motion to compel the employee to submit to an independent medical examination. "'The Work(ers') Compensation act makes no provision for an appeal to the superior court from a decision by the [appellate division] other than one which grants or denies compensation.' *Garner v. Owens-Illinois Glass*, 134 Ga. App. 917 (216 SE2d 709) (1975); OCGA § 34-9-105 (b)." *Conwood Corp. v. Guinn*, 190 Ga. App. 595 (379 SE2d 621) (1989). We must conclude that inasmuch as the appellate division's ruling on this issue did not constitute a "final order or judgment" within the contemplation of OCGA § 34-9-105 (b), neither the superior court nor this Court is authorized to review the appellate division's ruling in this matter. Therefore, this application is hereby DISMISSED for lack of jurisdiction.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.*

*William Z. Martin, III*, Clerk.

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

ATLANTA,            OCTOBER    24, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0063

AMY LYNN RAYFORD V. THE STATE

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

98006

02R070

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



# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**OCT 09 2002**

**A03D0064. Bashforth v. Graham**

Applicant Roy Bashforth filed this application for discretionary appeal seeking review of the trial court's order on Graham's motion for protective order, objection to discovery requests, objection to subpoena for the production of documents, and motion to quash. Bashforth's request for a certificate of immediate review was denied by the trial court. For this Court to have jurisdiction to consider an appeal of an interlocutory order, a certificate of immediate review is required. OCGA § 5-6-35 (b). Further, the issues raised in this case would not meet the requirements set forth in *Waldrip v. Head*, 272 Ga. 572, 574 (532 SE2d 380) (2000) for an exception to the certificate of immediate review requirement. Because this Court lacks jurisdiction to consider this application, it is ordered DISMISSED.

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

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

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

*W. Z. Martin, Jr., Clerk.*

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

ATLANTA,            OCTOBER    24, 2002

*The Court of Appeals passed the following order*

Case No. A03D0064

ROY BASHFORTH V. EVA GRAHAM

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

97-006  
021076534

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

A handwritten signature in black ink, appearing to read "W. Z. Martin". The signature is written in a cursive style and is positioned below the printed name of the 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 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 **S03C0318**

ROY BASHFORTH v. EVA GRAHAM

Clerk, Supreme Court of Georgia

Case No. A03D0064

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**NOV 04 2002**

Clerk, Court of Appeals of Georgia

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

ATLANTA,            OCTOBER    24, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0065  
MICHAEL ALBERT PATTERSON V. THE STATE

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

93006

99CR17

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **OCT 24 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 written.*

*Clerk.*

*Wm. Z. Martin, Jr.*

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

ATLANTA,                    OCTOBER    15, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0066  
SHAW INDUSTRIES, INC. V. JUDY D. SHAW

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.

99006  
82699A

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*            **OCT 15 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 written.*

*Clerk.*



# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 23 2002**

**A03D0067. HARVEY LEE AKIN v. THE STATE.**

On October 3, 2002, Harvey Lee Akin filed a pro se application seeking review of the superior court's August 1, 2002 denial of his "Motion for Out of Time Appeal from Probation Revocation." An application for discretionary appeal must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Since Akin filed his application 63 days after the entry of the order complained of, the application is untimely, and 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 23 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,

*The Court of Appeals hereby passes the following order:* **OCT 30 2002**

**A03D0068. M & S ZBOSNIK, INC., et al. v. PARTRIDGE GREEN, INC.**

Applicants seek an appeal from a final judgment granting respondent's motion for attorney's fees under OCGA § 13-6-11 in the amount of \$116,167.44. Because the judgment complained of exceeds \$10,000.00 and because the award was not granted under OCGA § 9-15-14, there is no apparent basis for applying the discretionary appeal procedure here. Compare *Landor Condominium Consultants, Inc. v. Colony Place Condominium Assoc., Inc.*, 195 Ga. App. 840 (395 SE2d 25) (1990); see also *Kraft v. Dalton*, 249 Ga. App. 754, 755 at note 2 (549 SE2d 543) (2001). Because applicants show that they have already filed a timely notice of appeal in the court below, their application for discretionary appeal is hereby *dismissed* as superfluous.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **OCT 30 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. [Signature]*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA,            OCTOBER    22, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0069  
ROBERT C. POARCH V. LINDA S. YATES

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

94006

2001V285

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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. Meath, Jr.*

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

ATLANTA, NOVEMBER 05, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0070  
MATTHEW PAUL CORNELL V. THE STATE

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

92006

977987

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **NOV 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.*

*Will Z. Martin, III*

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

ATLANTA,                    OCTOBER    23, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0071

LEMUEL SAPP V. THE STATE

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

70006

98R1070            98R1496

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 23 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.*

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

ATLANTA,                    OCTOBER    25, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0072

GRADY CROWLEY V. THE STATE

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

71006

96CR234236      93CR6425

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 25 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.*



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

ATLANTA, NOVEMBER 04, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0073  
KFC/TRICON ET AL V. LILLIE WILMORE

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.

95007

02CV17440

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

*Will Z. Martin, III*

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

ATLANTA,                      OCTOBER    23, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0074  
ALAN HEGE V. ABSOLUTE AUCTION, INC.

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

96007

2002CV000268

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      **OCT 23 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.*

*William L. Martin, III*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 24 2002**

**A03D0075. BRUCE M. GREER v. WARDEN HICKS, ET AL.**

Bruce M. Greer, pro se, filed suit against Patricia Hicks, Warden, and others for medical malpractice. On May 10, 2002, the trial court granted the defendants' motion to dismiss on the basis that Greer failed to attach an expert affidavit to the complaint, as required by OCGA § 9-11-9.1. On July 24, 2002, Greer submitted an application for discretionary appeal to the Supreme Court, but failed to include either filing costs or a notarized pauper's affidavit with the application. The Supreme Court transferred the case to this Court.

Unless sent by certified mail, an application is deemed filed only when it is physically delivered to, and clocked in by, the Clerk's office, accompanied by the cost of filing or a sufficient pauper's affidavit. See Court of Appeals Rules 4 and 5 (a); Supreme Court of Georgia Rules 5 and 13. Thus, this Court was not permitted to docket Greer's application, and it was accordingly returned to Greer by the Clerk of this Court with instructions that he submit either costs or a notarized pauper's affidavit for the appeal to be docketed in this Court. Greer resubmitted the application with a notarized pauper's affidavit, but the documents were not received in this Court until October 9, 2002, five months after the order granting the defendants' motion to dismiss.<sup>1</sup> OCGA § 5-6-35 (d) provides that applications for discretionary appeals must be filed within 30 days of entry of the judgment appealed

---

<sup>1</sup>We note that Greer's application would have been untimely, even if he had submitted a sufficient pauper's affidavit with his original application for discretionary appeal to the Supreme Court on July 24, 2002.

from. In discretionary appeals, a timely filed application is necessary to confer jurisdiction upon this Court to consider the appeal. See *Tobitt v. Tobitt*, 249 Ga 245 (290 SE2d 49) (1982). Because we are without jurisdiction in this case, the respondents' motion to dismiss is hereby GRANTED and the application is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.*

*W. L. Martin, III* Clerk.

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 17 2002**

**A03D0076. FLOYD D. SILCOX v. THE STATE.**

On October 9, 2002, Floyd D. Silcox filed an application seeking discretionary appeal of the order, entered August 6, 2002, denying his motion for extraordinary new trial. OCGA § 5-6-35 (d) provides that an application for discretionary appeal shall be filed within 30 days of the entry of the order, decision, or judgment sought to be appealed. Because Silcox did not file his application within 30 days of the entry of the order denying his motion for extraordinary new trial, the above-captioned application 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*

**OCT 17 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,

*The Court of Appeals hereby passes the following order:* **OCT 23 2002**

**A03D0077. DAVID RONALD HARRISON v. THE STATE.**

David Ronald Harrison seeks an appeal from an order denying his motion for reconsideration of a previous order denying his motion to correct a void or illegal sentence. However, the denial of a motion for reconsideration of an appealable order or judgment is not itself appealable and does not extend the time for filing an appeal. Harrison's application not having been filed within 30 days of the entry of the order denying his motion to correct a void or illegal sentence is untimely and must be DISMISSED for lack of jurisdiction. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **OCT 23 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.*

*Will Z. Martin, III*, Clerk.

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

ATLANTA,                      NOVEMBER 05, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0078

J.B. HUNT TRANSPORT, INC. V. EMANUEL FRAZIER

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.

99007

2002CV55405

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 05 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,

*The Court of Appeals hereby passes the following order:* **OCT 18 2002**

**A03D0079. Schlau v. The State**

Brian Lee Schlau filed this application for discretionary appeal seeking review of the trial court's denial of his motion to withdraw guilty plea. Schlau contends that jurisdiction in this Court is pursuant to OCGA § 5-6-35 (a) (2); however, that statutory provision is inapplicable to a denial of a motion to withdraw guilty plea. Because a motion to withdraw a guilty plea, filed within the same term of court as the plea, is directly appealable, this application is granted pursuant to OCGA § 5-6-35 (j). Schlau shall have ten days from the date of this order to file a notice of appeal with the trial court. The trial court is instructed to include a copy of this order in the record on appeal.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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.*

*Will Z. Martin, III*, Clerk.

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

ATLANTA, NOVEMBER 06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0080  
FULTON COUNTY BOARD OF EDUCATION V.  
NATHANIEL TAYLOR, 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.

90007

2002CV55938

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **NOV 06 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 written.*

*Clerk.*



# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 24 2002**

**A03D0081. JEFF DAVIS v. FLEETWOOD HOMES OF GEORGIA, INC., ET AL.**

Plaintiff Jeff Davis has filed an application for discretionary appeal of the order, entered on September 30, 2002, denying his motion to strike the affidavit of Lisa Duarte which was filed in support of defendants' motion to open default. The order, entered September 30, 2002, denying Davis' motion to strike was not designated by the trial court as a final order under OCGA § 9-11-54 (b).

On September 30, 2002, the trial court also entered an order granting the motion of defendant Fleetwood Homes of Georgia, Inc., to open default. This motion had the effect of negating the default and causing the case to remain pending in the trial court. Compare *Vangoosen v. Bohannon*, 236 Ga. App. 361, 363 (2) (511 SE2d 925) (1999); *Becker v. Bishop*, 151 Ga. App. 224 (259 SE2d 209) (1979); *Notrica v. Southern Bell Tel. & Tel. Co.*, 147 Ga. App. 737 (250 SE2d 196) (1978); *First National Bank of Atlanta v. Hudson*, 139 Ga. App. 629 (229 SE2d 109) (1976).

Because the order denying the motion to strike was not designated as a final order under OCGA § 9-11-54 (b) and the underlying case is still pending below, the

said order is interlocutory and requires an application for interlocutory review under OCGA § 5-6-34 (b). Because Davis did not obtain a certificate of immediate review and failed to comply with the interlocutory application procedures of OCGA § 5-6-34 (b), this discretionary application is ordered DISMISSED.

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

**OCT 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.*

*W. Z. Martin, III* Clerk.

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

ATLANTA,            OCTOBER    23, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0082

JOHN PURDEE V. THE STATE

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

92007

96FE266            95FE168

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 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. Martin, III*

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

ATLANTA,                      NOVEMBER 05, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0083

RAYMOND G. VOLL V. THE STATE

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

70007

02R848

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 05 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 written.*

*Clerk.*

*W. Z. Meitzner, Jr.*

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

ATLANTA,                      NOVEMBER 06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0084

DEWAYNE ANTHONY HENDERSON V. THE STATE

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

71007

CR90759

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 06 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. L. Martin, Jr.*

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

ATLANTA,                      NOVEMBER 12, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0085

SAMMIE LOCKHART V. THE STATE

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

95008

86R203

86R117

86R190

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 12 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,

*The Court of Appeals hereby passes the following order:* **OCT 24 2002**

**A03D0086. ANDREW JOHNSON v. THE STATE.**

On August 29, 2002, this Court dismissed Andrew Johnson's direct appeal because the underlying subject matter of the appeal was an order revoking probation that required a discretionary application under OCGA § 5-6-35 (a) (5). On October 16, 2002, Johnson filed an application for a discretionary appeal seeking reconsideration of the action dismissing his appeal on the grounds that an application for discretionary appeal has now been filed. But because Johnson has not filed an application for discretionary appeal within 30 days of the order sought to be appealed, as required under OCGA § 5-6-35 (d), this application is ordered DISMISSED.

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

**OCT 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.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 06 2002**

**A03D0087. MARCELINE JOHNSON v. ROCKDALE COUNTY ET AL.**

Marceline Johnson, pro se, filed this application seeking review of an order of the state court, entered September 19, 2002, dismissing her complaint for failure to state a claim. On October 18, 2002, Johnson filed a timely application for discretionary appeal.

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. Johnson shall have ten days from the date of this order to file her 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 06 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.*

*Will Z. Mathis, Jr.*, Clerk.

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 13 2002**

**A03D0088. LE v. THE STATE.**

Kha N. Le seeks an appeal from an order entered on September 6, 2002, disposing of various post-conviction motions. Le's application was originally mailed to this court on October 8, 2002 and was received by this court the following day. Because Le failed to include a copy of the order complained of with his submission, the application was returned to him. Le thereafter corrected the submission and resubmitted his application, which was docketed on October 21, 2002.

Because Le failed to file his application for appeal in this court within 30 days (on or before October 7, 2002) as required under OCGA § 5-6-35 (d), the application is hereby dismissed for lack of jurisdiction.

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

**NOV 13 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. Hunt, III*, Clerk.

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

ATLANTA, January 6, 2003

*The Court of Appeals hereby passes the following order:*

**A03D0088. LE v. THE STATE.**

Upon consideration of the Motion for Reconsideration filed on behalf of Appellant in the above styled case, it is hereby ordered that the Motion for Reconsideration is hereby dismissed as untimely filed.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta January 6, 2003*

*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, NOVEMBER 14, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0089  
HISTORIC DOWNTOWN LAWRENCEVILLE MERCHANTS  
ASSOCIATION V. RAY CRAIN ET AL

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

93008

02A036027

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 14 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, NOVEMBER 08, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0090

MOFFITT CONSTRUCTION, INC, . ET AL V. WILLIE BARNES

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

2002RCCV687

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

NOV 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.*

*W. Z. [Signature]*  
Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA, NOVEMBER 18, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0091

VIRGINIA A. GOFORTH V. PORMINA KENNESTONE HOSPITAL

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

91008

021523199

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 18 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. [Signature]*

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

ATLANTA, NOVEMBER 19, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0092

JASEN GILES V. THE STATE

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

90008

01SC08054 02SC00243

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 19 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:* **NOV 19 2002**

**A03D0093. GOODMAN v. VSP CERT, et al.**

Tony Goodman filed an application for appeal on October 24, 2002, enumerating an order entered on September 19, 2002. Because Goodman failed to file his application in this court within 30 days of the order complained of as required under OCGA § 5-6-35 (d), the application is hereby dismissed for lack of jurisdiction.

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta* **NOV 19 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. Tolanti, Clerk.*

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

ATLANTA,                      NOVEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0094  
RANDY BENJAMIN GIBSON V. THE STATE

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

92008

00CR19626

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 13 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, III*

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

ATLANTA,                      NOVEMBER 21, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0095

RODNEY J. WILHELM A/K/A RODNEY J. WILHEM V. THE STATE

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

70008

015584

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*    **NOV 21 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,            DECEMBER 06, 2002

*The Court of Appeals passed the following order*

Case No. A03D0095

RODNEY J. WILHELM A/K/A RODNEY J. WILHEM V. THE STATE

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

70-008  
015584

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    DEC 06, 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.



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 26, 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 **S03C0589**

RODNEY J. WILHELM, a/k/a WILHEM v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0095

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

DEC 30 2002

Clerk, Court of Appeals of Georgia

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

ATLANTA, NOVEMBER 15, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0096

DAVID L. SMITH V. CANTERBURY SQUARE, L.L.C., ET AL

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

71008

E53037

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 15 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,                      NOVEMBER 06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0097

MARCELINE JOHNSON V. ROCKDALE COUNTY, ET AL

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

98009

2002SV1125

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 06 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. Martin, III*

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

ATLANTA, NOVEMBER 19, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0098

JARREAU WALKER V. THE STATE

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

95009

01R408

00R498

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 19 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 written.*

*Clerk.*



Court of Appeals  
of the State of Georgia

ATLANTA, NOVEMBER 26, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0099  
KIRK LEROY SPITZER V. CAROLYN A. SPITZER

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

96009

01V397

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 26 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, NOVEMBER 15, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0100  
ATS SOUTHEAST, INC V. STEVEN V. JENKINS

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

97009

02A080577

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 15 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 written.*

*Clerk.*

*Will Z. Martin, III*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A03D0101. ARRIE PARKER v. BRENDA MURRELL. NOV 21 2002**

Arrie Parker filed this application for discretionary appeal from an order of the superior court denying his motion to set aside judgment in this habeas corpus case. However, because the Supreme Court has jurisdiction over appeals in habeas corpus cases, Parker's appeal is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const of 1983, Art VI, Sec. VI, Par. III (4).

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

**NOV 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.*

*W. Z. Martin, Jr.*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 14 2002**

## **A03D0102. ANTHONY BRIAN COPPOLA v. THE STATE.**

Anthony Brian Coppola a/k/a Anthony Brian Coppola was tried and convicted of burglary, aggravated assault, armed robbery, possession of a firearm during the commission of a crime, and possession of a firearm by a convicted felon. He appealed and his conviction was affirmed. *Coppola v. State*, 238 Ga. App. 567 (519 SE2d 494) (1999). Subsequently, Coppola, acting pro se, filed a Petition to Vacate Conviction and Sentence Based on Fraud, Wanton and/or Intentional Non-disclosure/Deception and Lack of Personal or Subject Matter Jurisdiction and a Motion/Request for Expedited Hearing.

On September 10, 2002, the superior court entered an order dismissing Coppola's motions. Coppola then filed a Petition for Certificate of Probable Cause, allegedly under the provisions of OCGA § 9-14-52 (b), with the Supreme Court of Georgia. On October 28, 2002, the Supreme Court entered an order transferring Coppola's appeal to this court because it did not state the crime for which Coppola was convicted and did not appear to present any issues which would invoke the appellate jurisdiction of the Supreme Court.

The underlying subject matter of an appeal generally controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). Examination of Coppola's petition for certificate of probable cause reveals that the underlying subject matter of the petition is a challenge to the validity of his judgment of conviction and that the challenge to the sentence is merely an ancillary issue. Thus, the primary thrust of Coppola's petition is to obtain a second appeal of his conviction and to have that conviction set aside. Because

Coppola raises no issue authorizing a second appeal of his conviction, this appeal is hereby DISMISSED for lack of jurisdiction. *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001); compare *Williams v. State*, 271 Ga. 686, 688-689 (1) (523 SE2d 857) (1999).

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

NOV 14 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, III*, 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:** December 3, 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 **S03C0458**

ANTHONY BRIAN COPPOLA v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0102

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**DEC 05 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:* **OCT 31 2002**

**A03D0103. DAVID K. NESBITT v. TAMMY NESBITT.**

David K. Nesbitt 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 VI, Sec. VI, Par. III (6). Therefore, this application is TRANSFERRED to the Supreme Court.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **OCT 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.*

 , Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

NOV 25 2002

## **A03D0104. POWELL v. THE STATE.**

Catena Lee Powell seeks an appeal from an order denying a motion to modify a prior revocation order as well as a motion to reconsider that revocation order. She also seeks review of the revocation order itself, which was entered on June 28, 2002. Because Powell filed no timely pleading that may be treated as a motion for new trial, motion in arrest of judgment, or motion for judgment notwithstanding the verdict, Powell's application is clearly untimely as to the revocation order itself. The denial of Powell's motion for reconsideration is likewise not subject to appeal. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Powell's motion to modify sentence was a mere request to reduce the one year's revocation to 180 days on the ground that but for a supervisor's behavior she would have completed her community service as originally scheduled. This is likewise in substance a mere motion for reconsideration, the denial of which is not subject to appellate review. *Savage v. Newsome*, supra.

Because Powell's application is untimely from the order revoking her probation and because the other orders enumerated by her are not appealable in their own right, her application is hereby *dismissed* for lack of jurisdiction.

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

NOV 25 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,                      NOVEMBER 15, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0105

PAUL CRISP V. THE STATE

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

94009

2002CR1132

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 15 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,                      NOVEMBER 15, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0106  
GEORGIA POWER COMPANY V. ANNA BRADLEY

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

92009

2002CV56153

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 15 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, III*

# Court of Appeals of the State of Georgia

ATLANTA,

NOV 11 2002

*The Court of Appeals hereby passes the following order:*

**A03D0107. RUBY M. GARNETT v. ATTY. LAUREL L. PAYNE ET AL.**

Ruby M. Garnett, acting pro se, sought to initiate a civil suit in the State Court of Richmond County by presenting a complaint together with an affidavit of indigency for filing on September 23, 2002. On September 25, 2002, the state court entered an order directing the clerk of the state court not to accept Garnett's complaint for filing after having reviewed the complaint under the provisions of OCGA § 9-15-2 (d). On October 24, 2001, Garnett filed a timely application seeking a discretionary appeal of the order of September 25, 2002.

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). OCGA § 9-15-2 (d) states that "[a]n order denying filing shall be appealable in the same manner as an order dismissing an action." The order denying filing of Garnett's complaint is a final order within the meaning of OCGA § 5-6-34 (a) because this case is no longer pending below. See *Barber v. Collins*, 194 Ga. App. 385 (1) (390 SE2d 633) (1990).

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).

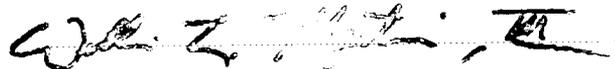
Accordingly, the application is ordered GRANTED. Garnett shall have ten days from the date of this order to file her notice of appeal. OCGA § 5-6-35 (g). The clerk of the state court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

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

**NOV 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.

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

ATLANTA, November 4, 2002

*The Court of Appeals hereby passes the following order:*

**A03D0107. RUBY M. GARNETT v. ATTY. LAUREL L. PAYNE ET AL**

It appearing the order of this Court issued NOVEMBER 11, 2002, 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 04 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*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 01 2002**

**A03D0107. RUBY M. GARNETT v. ATTY. LAUREL L. PAYNE ET AL.**

Ruby M. Garnett, acting pro se, sought to initiate a civil suit in the State Court of Richmond County by presenting a complaint together with an affidavit of indigency for filing on September 23, 2002. On September 25, 2002, the state court entered an order directing the clerk of the state court not to accept Garnett's complaint for filing after having reviewed the complaint under the provisions of OCGA § 9-15-2 (d). On October 24, 2001, Garnett filed a timely application seeking a discretionary appeal of the order of September 25, 2002.

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). OCGA § 9-15-2 (d) states that "[a]n order denying filing shall be appealable in the same manner as an order dismissing an action." The order denying filing of Garnett's complaint is a final order within the meaning of OCGA § 5-6-34 (a) because this case is no longer pending below. See *Barber v. Collins*, 194 Ga. App. 385 (1) (390 SE2d 633) (1990).

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. Garnett shall have ten days from the date of this order to file her 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 01 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 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 06 2002**

**A03D0108. WADE JENKINS v. EDDIE MAXWELL.**

Wade Jenkins, pro se, filed this discretionary application seeking review of a state court order denying his request to transfer this tort case, arising from a motor vehicle collision, to the magistrate court. Inasmuch as the case remains pending in the state court, appeal of the state court order requires the interlocutory appeal procedures set forth in OCGA § 5-6-34 (b). Jenkins maintains that he was unable to file a timely interlocutory application because the state court order was sent to him too late. Nonetheless, any request for relief under OCGA § 9-11-60 (g) may not be raised for the first time on appeal, but must first be submitted in the lower court. Therefore, since Jenkins did not follow the interlocutory appeal procedures set forth in OCGA § 5-6-34 (b), this application must be DISMISSED for lack of jurisdiction.

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

**NOV 06 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,

*The Court of Appeals hereby passes the following order:* DEC 02 2002

**A03D0109. MORGAN v. CORRECTIONS CORPORATION OF AMERICA  
et al.**

On October 31, 2002, Azeal Morgan filed an application for appeal in this Court seeking review of an order entered on August 23, 2002, granting the respondents' motion to dismiss his action. Because Morgan failed to file his application in this Court within 30 days after entry of the judgment complained of as required under OCGA § 5-6-35 (d), Morgan's application is hereby *dismissed* for lack of jurisdiction.

In connection with this application, respondent Patricia Hicks has filed a motion to dismiss Morgan's direct appeal from the same order referenced in Morgan's application. Because Morgan's appeal has not been docketed in this Court, we are without jurisdiction to consider Hicks' request. The motion is therefore *dismissed* without prejudice.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

DEC 02 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,                      NOVEMBER 19, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0110  
HAZEL HARDIN WRIGHT HILSMAN, ET AL., V. CITY OF FORSYTH  
BOARD OF ZONING APPEALS, ET AL

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

96010

2002CV53

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

**NOV 19 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 written.*

*Clerk.*

*W. Z. Martin, III*

Court of Appeals  
of the State of Georgia

ATLANTA,                      DECEMBER 02, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0111  
MBIA/SBD ET AL V. JERRY LASSITER

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

98010

SU02CV2628

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 02 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,                      NOVEMBER 25, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0112  
SCOTT EVANS CHRYSLER/PLYMOUTH/DODGE ET AL  
V. DARION SMITH

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

97010

02V001419

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*    **NOV 25 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.

*W. Z. Math, Jr.*

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

ATLANTA,                      NOVEMBER 21, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0113  
JOVAN CAMPBELL V. THE STATE

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

93010

SU02CR0707G

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 21 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, III*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

NOV 26 2002

**A03D0114. SMITH V. DEBIS FINANCIAL SERVICES, INC.**

Douglas Smith seeks an appeal from an order which, among other things, grants the plaintiff's "Motion for Sanctions and Application for Attachment for Contempt" based on Smith's failure to comply with a court order compelling him to appear for a deposition. A judgment of contempt is directly appealable. OCGA § 5-6-34 (a) (2); *In re Booker*, 186 Ga. App. 614 (367 SE2d 850) (1988). Accordingly, Smith's application for appeal is *granted* as required under OCGA § 5-6-35 (j).

Smith shall have ten days from the date of this order to file a notice of appeal. The Clerk of the State 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*

NOV 26 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. L. Martin, III* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 18 2002**

**A03D0115. IN THE INTEREST OF: A.T.L., A CHILD**

Melissa and Jason Hill filed this discretionary application seeking review of the superior court's October 4, 2002, custody order. 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). Here the application was filed on November 6, 2002, 33 days after the order complained of was entered. This Court lacks jurisdiction to consider the untimely application. Therefore, this application is ordered DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **NOV 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.*

*W. Z. Meeks, Jr.* Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA,            DECEMBER 11, 2002

*The Court of Appeals passed the following order*

Case No. A03D0115

IN THE INTEREST OF A.T.L. A CHILD

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

91-010  
01CV1212

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

Court of Appeals  
of the State of Georgia

ATLANTA,            NOVEMBER 27, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0116  
JAMES L. TRAYWICK ET AL V. MICHAEL CARDER ET AL

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

90010  
00CV335

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

**NOV 27 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 written.*

Clerk.

*William L. Martin, III*

Court of Appeals  
of the State of Georgia

ATLANTA,            DECEMBER 05, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0117  
JOHN ROBERTS V. CHRISTINA CAIN BRADLEY ET AL

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

94010

0037806

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



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

ATLANTA,                      NOVEMBER 27, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0118  
STEVEN R. COTTING V. MIKI COTTING

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

97011

01A032326

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 27 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,                      NOVEMBER 27, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0119  
STEVEN R. COTTING V. MIKI COTTING

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

97012

01A130696

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **NOV 27 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. Martini, III*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**DEC 06 2002**

**A03D0120. WALDREP v. ZODIAC COMMUNICATIONS, INC.**

Upon consideration of the above styled application for discretionary appeal, the application is hereby DENIED. Respondent's motion for penalty for frivolous application is likewise DENIED.

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

**DEC 06 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, III*, Clerk.

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

ATLANTA,                      NOVEMBER 21, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0121

EUGENE GRANT, JR. V. KEITH JENKINS, ET AL

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

70010

0000600

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

**NOV 21 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*

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 6, 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 **S03C0469**

EUGENE GRANT, JR. v. KEITH JENKINS et al.

Clerk, Supreme Court of Georgia

Case No. A03D0121

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**DEC 06 2002**

Clerk, Court of Appeals of Georgia

Court of Appeals  
of the State of Georgia

ATLANTA,            DECEMBER 09, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0122  
GEORGIA PERSONNEL SERVICES, INC., V. LORENZO ROBINSON

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

71010

02CV17612

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **DEC 09 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.

*William Z. Martini, III*

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

ATLANTA,            JANUARY    14, 2003

*The Court of Appeals passed the following order*

Case No. A03D0122

GEORGIA PERSONNEL SERVICES, INC., V. LORENZO ROBINSON

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

71-010  
02CV17612

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    JAN 14, 2003*

*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:** January 31, 2003

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 **S03C0746**

GEORGIA PERSONNEL SERVICES, INC. v. LORENZO ROBINSON

Clerk, Supreme Court of Georgia

Case No. A03D0122

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**FEB 05 2003**

Clerk, Court of Appeals of Georgia

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

ATLANTA,                      DECEMBER 06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0123  
THE GEORGIA DEPARTMENT OF COMMUNITY HEALTH,  
DIVISION OF HEALTH PLANNING V. GWINNETT HOSPITAL  
SYSTEM, INC. D/B/A GWINNETT MEDICAL CENTER 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.

95011

02A36864

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 06 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,                      DECEMBER    06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.                      A03D0124  
EHCA LLC ET AL V. GWINNETT HOSPITAL SYSTEM, INC.  
D/B/A GWINNETT MEDICAL CENTER 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.

95012

02A36864

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 06 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.*

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 19 2002**

**A03D0125. THENILA KIGHT v. MEMORIAL MEDICAL CENTER.**

On November 14, 2002, Thenila A. Kight filed an application seeking discretionary appeal of the order, entered October 7, 2002, denying a motion to set aside judgment. OCGA § 5-6-35 (d) provides that an application for discretionary appeal shall be filed within 30 days of the entry of the order, decision, or judgment sought to be appealed. Because Kight did not file the application within 30 days of the entry of the order denying the motion to set aside judgment, this Court lacks jurisdiction to consider it and the application is hereby ordered DISMISSED.

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

**NOV 19 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 written.*

 , Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA, · DECEMBER 06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0126

DIANE FREEMAN RITTER V. EDDIE NORMAN CHAMBERS

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

98011

01A27705

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 06 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.

*W. Z. Martin, III*

Court of Appeals  
of the State of Georgia

ATLANTA,            DECEMBER 06, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0127

JENNIFER DIANE CLABAUGH V. FREDRICK CHARLES KING

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

93011

2001CV39482

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

DEC 06 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, III*

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

ATLANTA,                    DECEMBER 11, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0128  
LARRY WAYNE STREETER V. THE STATE

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

99011

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

**DEC 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. Martin, III*

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

ATLANTA,            DECEMBER 11, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0129  
WAYNE J. WRIGHT V. THE STATE

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

91011

00R178

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 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 written.*

*Clerk.*

*[Handwritten Signature]*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*      **DEC 04 2002**

**A03D0130. BRIDGET CASEY JACKSON v. PAUL H. ELIOT.**

Bridget Casey Jackson filed an application for permission to appeal to this Court the trial court's order, denying her motion to dismiss and awarding attorney's fees to plaintiff Paul H. Eliot, in a modification of child support and visitation proceeding. As originally filed, Jackson's application sought an interlocutory appeal but was amended to request instead a discretionary appeal.

This domestic relations case is among those subject to the discretionary appeal procedures. See OCGA § 5-6-35 (a) (2) & (b). However, because the order complained of did not dispose of all remaining issues in the case, Jackson was required 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). An application to appeal an interlocutory order must contain a certificate of immediate review which is not present in this application. Because Jackson failed to comply with the interlocutory appeal requirements, her application is ordered DISMISSED for lack of jurisdiction.

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

**DEC 04 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 written.*

*W. Z. Martin, III*, Clerk.

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 29 2003**

**A03D0131. ECHOLS v. THE STATE.**

The Court having considered Echols' "writ to obtain judgment," the motion is hereby denied.

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta* **JAN 29 2003**

*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. L. Mait; [Signature]*, 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:** January 2, 2003

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 **S03C0632**

ANTHONY ECHOLS v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0131

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 14 2003

Clerk, Court of Appeals of Georgia

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

ATLANTA,                    DECEMBER 11, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0132  
HARALSON COUNTY ET AL V. JIMMY E. LEE

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

02481

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 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. Martin, Jr.*

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

ATLANTA,            DECEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0133  
CAROL N. SUMNER V. JOHN B. SUMNER

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  
CV023006

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*        **DEC. 13 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,

*The Court of Appeals hereby passes the following order:*

## **A03D0134. IN THE INTEREST OF JUSTIN J. COLYER-PHILOGENE, A CHILD.**

Bart K. Goss, the temporary guardian and former step-father of Justin J. Colyer-Philogene, a minor child, has filed a notice of direct appeal of the order of the juvenile court dismissing his objection under OCGA § 29-4-4.1 (c) to the petition of Jasmin T. Landers, the child's natural mother, to terminate temporary custody. This notice of appeal is still pending administrative processing in the lower court. Goss also has elected to file an application for discretionary appeal of the same order, although he continues to asserts his right of direct appeal under OCGA § 5-6-34 (a) (1).

The order sought to be appealed is a final order. Thus, the threshold jurisdictional question is whether the appeal is subject to the application procedure of OCGA § 5-6-35 (b) because the underlying case is a "domestic relations case" under OCGA § 5-6-35 (a) (1) (2). The underlying subject matter of this case, however, is not one contained in OCGA § 5-6-35, and this determination controls the applicable appellate procedure. See generally *Ferguson v. Composite State Board &c.*, 275 Ga. 255, 256-257 (1) (564 SE2d 715) (2002).

The order sought to be appealed was not entered as part of a divorce case or pursuant to the Uniform Child Custody Jurisdiction Act of 1978, OCGA § 19-9-40 et seq. or the Georgia Child Custody Intrastate Jurisdiction Act of 1978, OCGA § 19-9-20 et seq. Also, the order does not arise from and is not ancillary to divorce proceedings and is not derived from a marital relationship and divorce. Compare *In the Interest of J. P.*, 267 Ga. 492 (480 SE2d 8) (1997). OCGA § 29-4-4.1 is intended

to provide for the appointment of temporary guardians, and not to resolve child custody disputes. See *In Re Petition of Roscoe*, 242 Ga. App. 440, 441 (529 SE2d 897) (2000). The primary issue in this case is whether temporary guardianship should be terminated, and the issue of where the child will be placed is secondary to this determination. See *Rodrigues v. Nunez*, 252 Ga. App. 56, 59-60 (3) (555 SE2d 514) (2001).

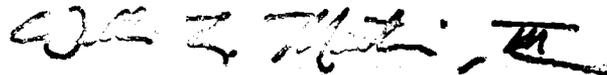
Because the underlying subject matter of this case is not a “domestic relations case” under OCGA § 5-6-35 (a) (2), this case is subject to direct appeal. Compare *Brown v. King*, 193 Ga. App. 495 (388 SE2d 400) (1989) and *Hays v. Jeng*, 184 Ga. App. 157 (360 SE2d 913) (1987). Accordingly, this application is DISMISSED without prejudice to the pending direct appeal in this case.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **DEC 20 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:* **DEC 17 2002**

**A03D0135. WALTER N. NEDRIGA, ET AL. v. EDGAR M. STORM, ET AL.**

Walter N Nedriga, Michael Maker, Larry Walker, and Lawrence Harry filed this application for discretionary appeal from a superior court order requiring Bell's Landing Condominium Association, Inc to conduct a special meeting at which the condominium owners could vote to retain or dismiss its current board. See OCGA § 14-3-160. But the order sought to be appealed is not a final judgment in this tort action for slander. Therefore, applicants should have followed the interlocutory appeal procedure. OCGA § 5-6-34 (b). The discretionary application statute, OCGA 5-6-35, does not allow a party to ignore the applicable interlocutory application procedures of OCGA § 5-6-34 (b) when seeking appellate review. *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996). Therefore, this application is ordered DISMISSED for lack of jurisdiction.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **DEC 17 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 written.*

 , Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **DEC 17 2002**

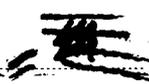
**A03D0136. WEBSTER v. BREDA.**

Keith George Webster seeks an appeal from an order directing him to refinance the mortgage on the marital home in order to remove the respondent's name from the loan or, in the alternative, to put the home up for sale. Because the ruling complained of directly addresses enforcement and/or modification of the non-custodial provisions of the parties' divorce decree, Webster's application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1979); see also *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); compare *Ashburn v. Baker*, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction in contempt action involving child custody issues, but not issues relating to divorce and alimony, is with the Court of Appeals).

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **DEC 17 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*,  Clerk.

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

ATLANTA,            DECEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0137

GEORGIA DEPARTMENT OF COMMUNITY HEALTH, DIVISION  
OF HEALTH PLANNING V. SAINT JOSEPH'S HOSPITAL OF ATLANTA,  
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.

93012

2002CV51824

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 13 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, III*

Court of Appeals  
of the State of Georgia

ATLANTA,                    DECEMBER 13, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0138

EHCA LLC, ET AL V. SAINT JOSEPH'S HOSPITAL OF ATLANTA, INC.

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

2002CV51824

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 13 2002**

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Clerk.

*Will Z. Martin, III*

Court of Appeals  
of the State of Georgia

ATLANTA, DECEMBER 17, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0139

PETER A. MORGENROTH V. MICHAEL L. THURMOND ET AL

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

99012

CV021022BR

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 17 2002**

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*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 20, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0140

TRENT TUBE/ITT HARTFORD V. ELMON DAVID HURSTON

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.

91012

02V001503

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **DEC 20 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    07, 2003

*The Court of Appeals passed the following order*

Case No. A03D0141

KENNETH COLEY V. THE STATE

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

90-012  
20029137

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    JAN 07, 2003*

*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,            JANUARY    07, 2003

*The Court of Appeals passed the following order*

Case No. A03D0141

KENNETH COLEY V. THE STATE

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

90-012  
20029137

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    JAN 07, 2003*

*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:*

**DEC 23 2002**

**A03D0142. COTTLE v. COTTLE, et al.**

Melanie Dawn Cottle seeks an appeal from an order terminating her parental rights in a minor child born on September 14, 1997, and granting the paternal grandparents' petition for adoption. The termination of parental rights is not considered a matter involving domestic relations within the meaning of OCGA § 5-6-35 (a) (2). See generally *In the Interest of D.S.P.*, 233 Ga. App. 346 (504 SE2d 211) (1998). Cottle's application is therefore *granted* as required under OCGA § 5-6-35 (j).

Cottle 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 this court.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 23 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,            DECEMBER 20, 2002

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0143  
ADAM R. WOODARD V. MARLA D. WOODARD

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

92012

2000V67736N

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 20 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*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **DEC 20 2002**

**A03D0144. HENRY C. ANSLEY, III v. THE STATE.**

On December 2, 2002, Henry C. Ansley, III, pro se, filed an application seeking discretionary appeal of the order, entered June 20, 2002, denying his motion for extraordinary new trial. OCGA § 5-6-35 (d) provides that an application for discretionary appeal shall be filed within 30 days of the entry of the order, decision, or judgment sought to be appealed. Because Ansley did not file his application within 30 days of the entry of the order denying his motion for extraordinary new trial, the above captioned application is ordered 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* **DEC 20 2002**

*I certify that the above is a true extract from  
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*Witness my signature and the seal of said court  
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*William L. Martin, III*, 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:** January 16, 2003

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 **S03C0671**

HENRY C. ANSLEY, III v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0144

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**JAN 17 2003**

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **DEC 20 2002**

**A03D0145. BENJAMIN W. JOHNSON v. WILLIAM POOLE ET AL.**

On December 9, 2002, Benjamin W. Johnson, acting pro se, filed an application seeking a discretionary appeal of the order, entered October 22, 2002, denying the filing of his pleadings under OCGA § 9-15-2 (d). OCGA § 5-6-35 (d) states that an application shall be filed with the clerk of the Court of Appeals within 30 days of the entry of the order, decision, or judgment sought to be appealed. Because Johnson has not filed his application within 30 days of the date of entry of the order that he seeks to appeal, this Court lacks jurisdiction over this application and it is ordered DISMISSED.

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **DEC 20 2002**

*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. L. Martin, Jr.* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **DEC 13 2002**

**A03D0146. JEFFREY SCOTT DEESE SR. v. THE STATE.**

On December 10, 2002, Jeffrey Scott Deese Sr. filed an application seeking discretionary appeal of the order, entered October 18, 2002, revoking his probation. However, no application for discretionary appeal may be considered unless it is timely filed as provided under OCGA § 5-6-35 (d). Because Deese's application was not filed within 30 days of the judgment complained of, the application is hereby ordered 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* **DEC 13 2002**

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

*Will L. Marti, Jr.*  
....., Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA,            JANUARY    08, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0147

ELBERT BLACKMON V. THE STATE

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

96013

02SC02816

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 08 2003**

*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 20 2002**

## **A03D0148. Kitchen v. The State**

Jamar Kitchen filed this application for discretionary appeal seeking review of the trial court's denial of his motion for new trial following the revocation of his probation. The denial of the motion for new trial was entered by the trial court on November 7, 2002. As stated by Kitchen in his application, the application was required to be filed by December 9, 2002. OCGA § 5-6-35 (d) and Court of Appeals Rule 3. Although Kitchen filed his application by certified mail on December 9, 2002, his application did not contain the required filing fee or a pauper's affidavit and could not be docketed. OCGA § 5-6-4 and Court of Appeals Rule 4. A pauper's affidavit was received on December 13, 2002. Thus, the application is considered filed as of December 13, 2002 which renders the application untimely and this Court lacks jurisdiction to consider the application. Accordingly, the application is ordered DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 20 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.*

*Will Z. Martin, III*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA,                      JANUARY      10, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0149

WILLIE SANDIFER V. V. J. ADAMS, JR. AS TRUSTEE OF THE V. J. ADAMS, JR.  
PROFIT SHARING PLAN

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

97013

48365

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

**JAN 10 2003**

*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. McIntire, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JAN 09 2003**

**A03D0150. CHRISTOPHER M. BROWN v, THE STATE.**

Christopher M. Brown filed this application for discretionary appeal seeking review of the trial court's order denying his extraordinary motion for new trial. The application does not contain a stamped "filed" copy of the order sought to be appealed as required by Court of Appeals Rule 31 (d). On December 16, 2002, this Court ordered Brown to supplement his application with a stamped "filed" copy of the order sought to be appealed within 10 days or the application would be dismissed. No stamped "filed" order has been filed within the time allowed. Accordingly, this application is ordered DISMISSED.

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

**JAN 09 2003**

*I certify that the above is a true extract from  
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*Witness my signature and the seal of said court  
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*W. Z. Martin, III*, Clerk.

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

ATLANTA,                    JANUARY        08, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0151

NORRIS SAPP V. DEKALB COUNTY RECORDERS COURT

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

91013

02CV49429            02CV84899

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 08 2003**

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

*Will Z. Martin, III*

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 14 2003**

**A03D0152. MITCHELL v. THE STATE.**

Clemmie Lee Mitchell seeks an appeal from an order denying his “Successive Motion to Quash Detainer and Notice of Direct Intent to File Writ of Mandamus.” It appears Mitchell’s original motion was denied by order entered on April 4, 2000. “It is axiomatic that the same issue cannot be relitigated *ad infinitum*. [Cit.]” *Horton v. State*, 189 Ga. App. 370 (375 SE2d 668) (1988). It follows that Mitchell’s “successive” motion to quash detainer on the same grounds as presented in his previous motion is in substance nothing more than an untimely motion for reconsideration. The denial of such a motion is not subject to appeal. *Campbell v. State*, 192 Ga. App. 316 (385 SE2d 316) (1989); see also *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Because Mitchell failed to file a timely application for appeal at the time his first motion to quash was denied, his application is hereby *dismissed* for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk’s Office, Atlanta **JAN 14 2003**

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 13 2003**

**A03D0153. Donna Marie Smith v. Mollie L. Fleeman, Director, Georgia Secretary of State Licensing Division**

Donna Marie Smith filed this application for discretionary appeal seeking review of the trial court's denial of her application to present additional evidence. In this administrative proceeding, Smith sought to present additional evidence or testimony and to compel the respondents to open their records, memoranda, and investigative files to her at or prior to a December 12, 2002 hearing. However, since the order Smith seeks to appeal is a non-final order, as the case remained pending at the time the order was issued, an application for interlocutory appeal is required. OCGA § 5-6-34 (b). Smith's failure to comply with the interlocutory appeal requirements 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* **JAN 13 2003**

*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,                      JANUARY      03, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.                      A03D0154

NAKESHIA M. PRITCHETT V. TIMOTHY R. MERRITT

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.

92013

0210395935

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 03 2003**

*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,

*The Court of Appeals hereby passes the following order:* **DEC 20 2002**

## **A03D0155. KENNETH T. LANG v. THE STATE.**

On August 16, 2002, Kenneth T. Lang entered a plea of guilty to possession of marijuana with intent to distribute. On August 29, 2002, Lang was sentenced to serve three years in the penitentiary, three years on probation, and a fine of \$750.00. Lang did not file a timely notice of appeal subsequent to the acceptance of his guilty plea and imposition of sentence. On October 22, 2002, during a different term of court, Lang filed a motion for reconsideration of sentence. See OCGA § 15-6-3 (35) (D). On November 26, 2002, an order was entered denying Lang's motion for reconsideration of sentence. On December 12, 2002, Lang filed an application for discretionary appeal.

Because more than 30 days has expired since final disposition was entered in Lang's case, his conviction is not subject either to a direct or discretionary appeal. OCGA §§ 5-6-38 (a); 5-6-35 (d). Also, there is no evidence attached to this application, including the motion for reconsideration of sentence, that establishes that the order sought to be appealed is subject either to direct or discretionary appeal. Specifically, it is not shown that the motion for reconsideration of sentence specifically raised the issue of the illegality of sentence and that such issue was ruled upon by the trial court. Even if the motion could be treated as a motion to withdraw guilty plea because it was filed during a different term of court, the trial court would be without authority to grant the motion and Lang's only relief would be by habeas corpus proceeding in the county where he is incarcerated. *Grice v. State*, 236 Ga. App. 379, 380 (511 SE2d 909) (1999).

Accordingly, Lang's application for discretionary appeal is ordered  
DISMISSED.

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

**DEC 20 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 02 2003**

## **A03D0156. CHESTER GAMBREL v. THE STATE.**

Chester Gambrel has filed this application for discretionary appeal on December 12, 2002. He specifies as the judgment he seeks to appeal his November 13, 2002, judgment of conviction entered on his guilty plea and sentence. OCGA § 5-6-35 (b). A criminal defendant may directly appeal a judgment of conviction. OCGA § 5-6-34. Gambrel's timely application is therefore GRANTED as required under OCGA § 5-6-35 (j).

Gambrel shall have ten days from the date of this order to file his notice of appeal. 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* **JAN 02 2003**

*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, III*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA,            JANUARY    15, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0157

FABIAN M. DOZIER ET AL V. KENNETH J. RAJOTTE

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

95014

02CV57788

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 15 2003**

*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,                    JANUARY    08, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0158

LISA LYNN THIBAUT V. DAVID MALCOM ROBERTSON

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

96014

981592342

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **JAN 08 2003**

*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. L. Mart; JR*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 06 2003**

**A03D0159. DONNA MARIE SMITH v. MOLLIE L. FLEEMAN ET AL.**

Donna Marie Smith filed this application for discretionary appeal from the superior court's order denying her motion for appointment of counsel. The order that Smith seeks an appeal from, however, is not a final judgment. Thus, Smith was required to follow the interlocutory appeal procedure of OCGA § 5-6-34 (b), including obtaining a certificate of immediate review from the trial court within the required period of time. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Smith's failure to follow the requisite interlocutory appeal procedure deprives this Court of jurisdiction to consider her appeal, which is accordingly hereby DISMISSED.

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

**JAN 06 2003**

*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, III*, Clerk.

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

ATLANTA,            JANUARY    02, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A03D0160

JAMES RAMSEY V. THE STATE

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

97014

Z80536

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **JAN 02 2003**

*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*

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 15, 2003

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 **S03C0661**

JAMES RAMSEY v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A03D0160

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**JAN 15 2003**

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*     **JAN 08 2003**

**A03D0161. BARBARA NATIONS v. CITY OF DORAVILLE ET AL.**

Barbara Nations filed a petition in superior court for certiorari and alternative petitions for habeas corpus and quo warranto following her conviction in the municipal court of Doraville for "Structural Repair To Building No Permits in violation of Ordinance Section 1-15 95-23." In addition to seeking appellate review of her conviction, Nations also sought a writ of habeas corpus to inquire into the legality of her sentence and a writ of quo warranto to inquire into the right of the Judge of the Municipal Court of the City of Doraville to such public office.

In her application, which follows the entry of an apparent final judgment by the superior court on November 18, 2002, Nations contests a number of issues, including the merits of the dismissal of her petitions for writs of habeas corpus and quo warranto. The Supreme Court has appellate jurisdiction over all habeas corpus cases and all cases involving extraordinary remedies. Ga. Const. of 1983, Art VI, Sec VI, Par. III (4) & (5).

An earlier discretionary application in this case, Case No. A01D0219, was transferred to the Supreme Court where it was dismissed as premature. See order entered March 19, 2001 in Supreme Court Case No. S01D0844.

As with the earlier application, this court cannot exercise appellate jurisdiction over the merits of any habeas corpus or quo warranto cases. Therefore, this application is hereby TRANSFERRED to the Supreme Court.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **JAN 08 2003**

*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. Meitner, III*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA, JANUARY 13, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0162

CYNTHIA HOLT DANIELS V. RICHARD STEPHEN DANIELS

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

99014

99CV4597

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 13 2003**

*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*

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, 2003

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 **S03C0752**

CYNTHIA HOLT DANIELS v. RICHARD STEPHEN DANIELS

Clerk, Supreme Court of Georgia

Case No. A03D0162

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**FEB 05 2003**

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **DEC 31 2002**

**A03D0163. Margaret I. Moon v. David N. Moon**

Margaret I. Moon filed this application for discretionary appeal from the trial court's order denying her motion for new trial in her action for divorce. In her application, Ms. Moon seeks to reverse the trial court's final judgment and decree of divorce. However, the Supreme Court has exclusive jurisdiction over all divorce and alimony cases. Ga. Const. Art. VI, Sec. VI, Par. III (6). Accordingly, this application is TRANSFERRED to the Supreme Court.

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

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.* **DEC 31 2002**

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

*W. Z. Meath, Jr.*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 07 2003**

**A03D0164. EX PARTE TAYLORS v. GOLDEN AGE PROPERTIES**

Zachary B. Taylor, pro se, on behalf of his mother Laverne M. Taylor and other members of his family, filed this application for discretionary appeal. He alleges in his application that he is appealing from an October 28, 2002, order of the Pulaski County Superior Court. The copy of this order included with the application demonstrates that it is simply a Rule Nisi ordering him to appear for a hearing on the defendants' motion to dismiss, petition of prohibition, and motion to compel discovery. An oral order is not final nor appealable until and unless it is reduced to writing, signed by the judge, and filed with the clerk. See OCGA § 5-6-31. These actions constitute "entry," and only an "entered" decision or judgment is appealable. *Sharp v. State*, 183 Ga. App. 641 (360 SE2d 50) (1987). The order in this case does not dispose of the motions at issue and is not an appealable judgment. Although it appears that the trial court in fact issued an order from the bench dismissing this lawsuit, it does not appear that the order was reduced to writing. Taylor's application for discretionary appeal thus presents no properly entered decision for this Court to review. Accordingly, the application is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 07 2003**

*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,                      JANUARY      30, 2003

*The Court of Appeals passed the following order*

Case No. A03D0164

EX PARTE TAYLORS V. GOLDEN AGE PROPERTIES

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

90-014  
02V9718

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    JAN 30, 2003*

*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. L. Martine*

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 19, 2003

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 **S03C0842**

*EX PARTE TAYLORS v. GOLDEN AGE PROPERTIES*

Clerk, Supreme Court of Georgia

Case No. A03D0164

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**FEB 25 2003**

Clerk, Court of Appeals of Georgia

Court of Appeals  
of the State of Georgia

ATLANTA,            JANUARY    16, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A03D0165

KENNETH BARNGROVER, D.O., V. COMPOSITE STATE BOARD  
OF MEDICAL EXAMINERS

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

94014

E61478

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **JAN 16 2003**

*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.*

*W. Z. Math*, <sup>Clerk.</sup> *TH*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 09 2003**

**A03D0166. CLINTON C. STAFFON v. SERINA M. STAFFON.**

Clinton C. Staffon 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, Sec VI, Para. 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). Therefore, this application is TRANSFERRED to the Supreme Court for disposition.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **JAN 09 2003**

*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,                    JANUARY    10, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0167  
ALI JAMAL V. MICHAEL THURMOND 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.

70014  
2002CV56075

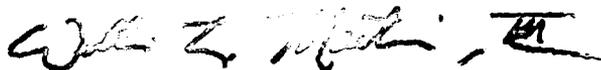
*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*

**JAN 10 2003**

*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.



Court of Appeals  
of the State of Georgia

ATLANTA,            JANUARY    14, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0168

LYNN J. GROW V. WESTERN UNION FINANCIAL SERVICES

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

71014

52016

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **JAN 14 2003**

*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.*



Court of Appeals  
of the State of Georgia

ATLANTA, JANUARY 17, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A03D0169  
CAROLYN RAY V. FOOD LION ET AL

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

95015

CV021037FR

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 17 2003**

*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,                      FEBRUARY    06, 2003

*The Court of Appeals passed the following order*

Case No. A03D0169

CAROLYN RAY V. FOOD LION ET AL

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

95-015  
CV021037FR

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    FEB 06, 2003*

*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. L. Matting*

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 19, 2003

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 **S03C0829**

CAROLYN RAY v. FOOD LION et al.

Clerk, Supreme Court of Georgia

Case No. A03D0169

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**FEB 24 2003**

Clerk, Court of Appeals of Georgia

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

ATLANTA,

**JAN 08 2003**

*The Court of Appeals hereby passes the following order:*

**A03D0170. MICHAEL MEANS v, CITY OF ATLANTA POLICE DEPT., ET AL.**

Plaintiff Michael Means has filed a timely application for discretionary appeal, under OCGA § 5-6-35 (a) (9), seeking an appeal of the order, entered November 18, 2002, granting the defendants' motion for summary judgment in a civil suit. An order granting summary judgment is subject to direct appeal. OCGA §9-11-56 (h); see Culwell v. Lomas & Nettleton Company, 242 Ga. 242, 243 (248 SE2d 641) (1978). Means has not filed a notice of appeal in this case. Accordingly, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j). Means shall have ten days from the date of this Order to file his 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*

*I certify that the above is a true and correct copy of the order 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. L. Martin, Jr.*, Clerk.

Court of Appeals  
of the State of Georgia

ATLANTA,            JANUARY    14, 2003

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A03D0171

CHARLOTTE COLTRINE AS THE DULY APPOINTED GUARDIAN  
OF THOMAS COLTRINE V. THE KROGER COMPANY ET AL

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

98015

02CV2570M

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 14 2003**

*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,

*The Court of Appeals hereby passes the following order:* **JAN 15 2003**

**A03D0172. SCHLAU v. THE STATE.**

Brian Lee Schlau seeks an appeal from an order denying his motion for appointment of counsel. Schlau did not not include a copy of his motion in his application, but asserts that the motion was one for appointment of appellate counsel to prosecute his appeal in Appeal No. A03A0486. Because the order complained of is the final disposition of a post-judgment matter not enumerated under OCGA § 5-6-35 (a), Schlau's application is granted as required under OCGA § 5-6-35 (j). Schlau shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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*

**JAN 15 2003**

*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.