

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 07 2006**

A07D0001. TERRY MICHAEL WEAVER v. THE STATE.

Terry Michael Weaver's probation was revoked via an order entered on December 6, 2005. No discretionary application pursuant to OCGA § 5-6-35 (a) (5), or motion for new trial with respect to the revocation order, was filed within 30 days of the date of entry of the revocation order. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the date of the order, decision or judgment sought to be appealed. The requirements of OCGA § 5-6-35 are jurisdictional and this Court cannot accept an appeal not made in compliance therewith. *Boyle v. State of Ga.*, 190 Ga. App. 734 (380 SE2d 57) (1989). Weaver's failure to comply with the discretionary appeal requirements deprives this Court of jurisdiction to consider this application.

Also, this Court's lack of jurisdiction is not remedied by the June 12, 2006 order of the superior court purporting to grant leave for an out-of-time appeal. Neither this Court nor a trial court has authority to grant an extension of time for the filing of an application for discretionary appeal. *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d

848) (2001); *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983); Court of Appeals Rules 16 (c) and 31 (f). Therefore, this application is ordered DISMISSED.

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

SEP 07 2006

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. Martin, Clerk.

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

ATLANTA, SEPTEMBER 27, 2006

The Court of Appeals passed the following order

Case No. A07D0001

TERRY MICHAEL WEAVER V. THE STATE

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

95-001
2005CR1126

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 27, 2006*

*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. Mat... [Signature]

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

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 11 2006**

**A07D0002. COASTAL MARSHLAND PROTECTION COMMITTEE v.
CENTER FOR A SUSTAINABLE COAST, et al.**

**A07D0003. POINT PETER, LLLP v. CENTER FOR A SUSTAINABLE
COAST, et al.**

Upon review of the above styled applications for discretionary appeal, the applications are hereby GRANTED. The applicants shall have ten days from the date of this order to file their respective notices of appeal with the Superior Court of Fulton County. The clerk of the superior court is directed to include a copy of this order in the records transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 11 2006**

*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. Matz
....., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 11 2006**

**A07D0002. COASTAL MARSHLAND PROTECTION COMMITTEE v.
CENTER FOR A SUSTAINABLE COAST, et al.**

**A07D0003. POINT PETER, LLLP v. CENTER FOR A SUSTAINABLE
COAST, et al.**

Upon review of the above styled applications for discretionary appeal, the applications are hereby GRANTED. The applicants shall have ten days from the date of this order to file their respective notices of appeal with the Superior Court of Fulton County. The clerk of the superior court is directed to include a copy of this order in the records transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 11 2006**

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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.*

Willie L. Martin
....., Clerk.

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

ATLANTA, SEPTEMBER 01, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0004

LINDA NORMAN V. THELMA ODON

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

98001

200619844

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 01 2006**

*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

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

ATLANTA, SEPTEMBER 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0005
BENDRICK ELDER V. THE STATE

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

90001

SU06CR0826

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 12 2006

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

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hereto affixed the day and year last above above written.*

Clerk.

Willie L. Martinez

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

ATLANTA, SEPTEMBER 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0006
VALLEY NATIONAL BANK V. SANDALON, INC., ET AL

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

91001

06CR029858

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 13 2006

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 30 2006**

A07D0007. ARLANDA SMITH v. MARJORIE SMITH.

On August 21, 2006, Arlanda Smith filed this application for discretionary appeal, seeking to appeal the July 18, 2006 order denying his motion to set aside. OCGA § 5-6-35 (d). Because Smith filed his application 34 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 30 2006**

*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.*

Willie L. Mat... Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: OCT 27 2006

A07D0008. PHOENIX THEATRE ACADEMY, INC. v. MICHAEL L. THURMOND ET AL.

Via an order entered September 19, 2006, this application was dismissed due to the absence of a timely response to this Court's order directing the filing of a stamped "filed" copy of the order sought to be appealed. The stamped "filed" copy of the order was filed four days past the date specified by this Court, but it is now apparent as indicated in a letter accompanying the late filing and in applicant's motion for reconsideration that the delay was caused by the mailing of this Court's order directing the filing to an incorrect address. Therefore, the motion for reconsideration is GRANTED, and the application is reinstated.

Upon consideration of the application on its merits, however, the application is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 27 2006

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

Willie L. Martinez, Clerk.

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

ATLANTA, SEPTEMBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0009
PHONGPHANH PHANMIXAY V. THE STATE

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

93001

2005CR010970

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

SEP 18 2006

*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. Matia

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

ATLANTA, SEPTEMBER 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0010

BART L. GRAHAM V. OXFORD CONSTRUCTION COMPANY, INC

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

94001

2004CV168

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 13 2006

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

Will L. Martin

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

ATLANTA, OCTOBER 05, 2006

The Court of Appeals passed the following order

Case No. A07D0010

BART L. GRAHAM V. OXFORD CONSTRUCTION COMPANY, INC

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 05, 2006*

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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.

William L. Martinez

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

ATLANTA, SEPTEMBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0011

ALBERTA SMITH V. THE STATE

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

92001

03SC05822

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 18 2006

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Clerk.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 19 2006**

A07D0011. ALBERTA SMITH v. THE STATE.

On October 4, 2006, Alberta Smith filed a motion for reconsideration of this Court's September 18, 2006 order denying her application for discretionary appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed within ten days from the rendition of the judgment. Smith's motion for reconsideration is thus untimely and is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 19 2006**

*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. Mat... , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 19 2006**

A07D0012. MARGARET DANIELS v. THE STATE.

Margaret Daniels entered a negotiated guilty plea to possessing a sawed-off shotgun and carrying a concealed weapon. Subject to several conditions, the trial court probated her sentence. On July 25, 2006, the trial court entered an order revoking probation and on August 25, 2006, 31 days later, Daniels filed this application for discretionary appeal.

Appeals from orders revoking probation must be made by application filed with the appropriate court within 30 days of the date that the revocation order is entered. See OCGA § 5-6-35 (a) (5) and (d); *Johnson v. State*, 237 Ga. App. 677 (516 SE2d 539) (1999). Because Daniels failed to file an application within 30 days as required by law, this appeal must be DISMISSED for lack of jurisdiction. *Scriven v. State*, 179 Ga. App. 513 (346 SE2d 906) (1986).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 19 2006**

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

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Will. L. Mat... , Clerk.

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

ATLANTA,

SEPTEMBER 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0013

JACQUELYN INEZ MILLER V. LEWIS MATHIS, JR. ET AL

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

71001

06CV58508

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 19 2006

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the minutes of the Court of Appeals of Georgia*

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

Willi L. Mathis

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: SEP 27 2006

A07D0014. GREG COHEN DBA FABRIC DEPOT v. LEASE COMM CORPORATION.

On August 28, 2006, Greg Cohen, acting pro se, filed an application for discretionary appeal. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the date of entry of the order sought to be appealed. Because the application does not contain or reference any order of the trial court filed within the allowed period preceding the filing of the application, the application is not timely. Therefore, this court lacks appellate jurisdiction over this application which is ordered DISMISSED. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* SEP 27 2006

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Will L. Martinez, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: SEP 22 2006

A07D0015. ROBINSON, Jr v. DONALD, Commissioner, et al.

William H. Robinson, Jr., filed an application for appeal from an order denying his petition for a writ of mandamus pursuant to OCGA § 9-6-20. Because this civil action is separate and distinct from the criminal action to which it refers, and because the Supreme Court has appellate jurisdiction in cases involving extraordinary remedies, Robinson's application is hereby *transferred* to the Supreme Court. 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 22 2006

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 12 2006

A07D0016. Joe Ray Bonding Company, Inc. v. The State

Joe Ray Bonding Company ("the Company") seeks discretionary review of the trial court's order denying its Motion for Fifty Percent Remission of Judgment of Forfeiture Absolute. The Company seeks one half of the \$9,800.00 it paid when one of its bonded defendants failed to appear for Court. However, there is no issue in this case which would require an application for discretionary appeal pursuant to OCGA § 5-6-35 (a). Although the amount sought is less than \$10,000, it is not an action for damages that would bring the case under OCGA § 5-6-35 (a) (6). Accordingly, the Company's application is GRANTED pursuant to OCGA § 5-6-35 (j).

The Company 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*

SEP 12 2006

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Willie L. Martinez, Clerk.

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

ATLANTA,

SEPTEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0017

MICHAEL W. SHARPE V. W. RENAY SHARPE F/K/A WANDA RENAY SHARPE

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

DR050573 DR930451

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2006

*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.

Willie L. Martinez

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

ATLANTA,

SEPTEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0018

MICHAEL CRAWFORD O'KELLEY V. MARY ANN COLLINS

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

70002

04V1561

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2006

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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.

Willi L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 20 2006**

A07D0019. TAMMY DEE WILSON v. FLOYD CHARLES WATKINS.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED. Applicant Tammy Dee Wilson's emergency motion under Court of Appeals Rule 40 (b) is also DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 20 2006

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will L. Matz , Clerk.

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

ATLANTA,

SEPTEMBER 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0020

DIANA GOWINS V. W.E. GARY

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.

93002

2004CV88406

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **SEP 19 2006**

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the minutes of the Court of Appeals of Georgia*

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

Willi L. Mat...A

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

ATLANTA,

SEPTEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0021

CARL FREEMAN V. GEORGIA PEACE OFFICER STANDARDS AND
TRAINING COUNCIL

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

94002

2005CV27655

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2006

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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. L. Martinez

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

ATLANTA, SEPTEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0022
RETHIA P. TUCKER V. KEITH DUHART

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

92002

2006CV112319

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 28 2006

*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 L. Mat... [Signature]

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

ATLANTA, OCTOBER 31, 2006

The Court of Appeals passed the following order

Case No. A07D0022

RETHIA P. TUCKER V. KEITH DUHART

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 31, 2006*

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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 L. Martin

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

ATLANTA, OCTOBER 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0023
FOI COMMUNITY COFFEE/ HARTFORD INSURANCE COMPANY
ET AL V. DANIEL GONZALEZ ET AL

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

99002

06CV15812

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 10 2006

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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.

Willie L. Martin

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

ATLANTA, OCTOBER 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0024

SOUTHERN LINKS GOLF CLUB, INC., V. BULLOCH COUNTY, GEORGIA

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

71002

1B06CV132

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 05 2006

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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 L. Martin

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

ATLANTA,

SEPTEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0025

HITACHI UNISIA OF GEORGIA ET AL V. ROYAL & SUNALLIANCE 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.

95003

0612183

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 28 2006**

*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

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

ATLANTA, OCTOBER 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0026
GEORGE MCCORMICK V. MARISSA BOYLAN

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

96003

06CV0956

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 11 2006

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

Clerk.

Will L. Mat...

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 21 2006

A07D0027. STRICKLAND v. THE STATE.

Wayne Douglas Strickland seeks an appeal from an order denying his “motion for void sentence.” Strickland, who was sentenced as a recidivist under OCGA § 17-10-7 (c), argues that the superior court erred in failing to consider probating or suspending his sentence as authorized under OCGA § 17-10-7 (a). But an order denying a motion to correct a void sentence is independently appealable only where the sentence imposed is alleged to be greater than the maximum sentence allowed by law. *Jones v. State*, 278 Ga. 669, 670-671 (604 SE2d 483) (2004). Because Strickland does not argue that his sentence exceeds the maximum allowed by law, his application for appeal from a non-appealable order is hereby *dismissed* for lack of jurisdiction.

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

SEP 21 2006

*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. Martin*....., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: OCT 03 2006

A07D0028. Timothy F. Coen v. City of Doraville

Timothy F. Coen seeks discretionary review of the trial court's dismissal of his appeal to the Superior Court of DeKalb County following a ruling by the Municipal Court of Doraville. The trial court dismissed Coen's appeal on June 13, 2006. Coen filed a motion for reconsideration which was denied on August 11, 2006. This application was filed on September 11, 2006. However, although Coen filed a motion for reconsideration of the trial court's order, a motion for reconsideration does not extend the time for filing a notice of appeal to this Court. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994).

The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction upon this Court. *Couch v. United Paperworkers Intern. Union*, 224 Ga. App. 721 (482 SE2d 704) (1997). Because this application was not filed within 30 days of the trial court's order dismissing Coen's appeal, this Court lacks jurisdiction to consider it. OCGA § 5-6-48 (b) (1). Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 03 2006

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 19, 2006

The Court of Appeals passed the following order

Case No. A07D0028

TIMOTHY F. COEN V. CITY OF DORAVILLE

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 19, 2006*

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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 L. Matz

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

ATLANTA, OCTOBER 04, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0029
CITY OF ST. MARYS, GEORGIA, ET AL V. MIKE FULFORD

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
05V1017

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 04 2006

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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. L. Mat... [Signature]

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

ATLANTA, OCTOBER 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0030
THE MEDICINE CENTER PHARMACY V. GEORGIA DEPARTMENT OF
COMMUNITY HEALTH

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

70003

2006CV116132

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

OCT 11 2006

*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.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 19 2006**

A07D0031. LARRY SOUTHARDS v. RABUN COUNTY GEORGIA.

Larry Southards filed this discretionary application to appeal his misdemeanor convictions in superior court for violating the Rabun County zoning ordinance. There is no issue in this case, however, that requires an application for discretionary appeal. Although Southards was convicted of violating a zoning ordinance, he does not seek to appeal a decision of a superior court reviewing a zoning decision as contemplated by OCGA § 5-6-35 (a) (1). Compare *Russell v. East Point*, 261 Ga. 213 (403 SE2d 50) (1991) (direct appeal of conviction in city court for ordinance violations dismissed because there is no right of direct appeal from a non-constitutional court). Therefore Southards' application is GRANTED under OCGA § 5-6-35 (j).

Southards 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 **SEP 19 2006**

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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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: NOV 01 2006

A07D0032, A07D0059. THOMAS J. MADDOX v. CORNERSTONE BAPTIST CHURCH. (two cases)

These applications seek review of the grant of a motion to enforce settlement in a nuisance and trespass action. With respect to the order sought to be appealed, applicant Thomas J. Maddox has filed discretionary applications in this Court and in the Supreme Court, as well as a notice of appeal in the trial court. After a number of transfers between the appellate courts, both discretionary applications are now before this Court for resolution. Since this is a case enumerated in OCGA § 5-6-34 (a), but not in OCGA § 5-6-35 (a), no discretionary application was required. And, because Maddox indicates that he has filed a notice of appeal, which is presumed to be timely, there is no possibility of an appeal pursuant to OCGA § 5-6-35 (j). Accordingly, these two discretionary applications are ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 01 2006

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

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Willie L. Matz, Clerk.

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

ATLANTA, OCTOBER 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0033

WILLIAM STEPHEN FREY V. SHEILA LINVILLE STAYTON F/K/A
SHEILA LINVILLE FREY

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

94003

05A50908

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 13 2006

*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. Mat... [Signature]

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

ATLANTA, OCTOBER 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0034
FAHEMAH, INC. D/B/A MARIETTA AUTO MART V. ARCADIA
FINANCIAL, LTD.

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

92003

04A41962

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 11 2006**

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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. L. Martinez

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

ATLANTA, OCTOBER 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0035

SANDRA POPE V. PAULA BATES

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

99003

06VS096915

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 10 2006**

*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. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA, OCT 16 2006

The Court of Appeals hereby passes the following order:

A07D0036. JADE REASONER v. DAVID REASONER et al.

Jade Reasoner seeks to appeal an order that granted temporary custody of Shea Reasoner, her daughter, to the child's maternal grandparents, David and Michelle Reasoner. The order awarding custody of the child to the grandparents "on a temporary basis" is not a final, appealable order. *Smith v. Houston*, 244 Ga. 113 (259 SE2d 93) (1979). The order at issue is interlocutory and a certificate of immediate review was not obtained. Jade Reasoner's failure to comply with the interlocutory appeal procedures of OCGA § 5-6-34 (b) deprives this Court of jurisdiction to consider her appeal. Accordingly, this discretionary application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 16 2006

*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. Matz

, Clerk.

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

ATLANTA, SEPTEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0037
BEVERLY SLATER V. STATE OF GEORGIA, EX REL., CATHY COX,
SECRETARY OF STATE AND COMMISSIONER OF SECURITIES

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.

95004

2002CV60990

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2006

*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. McIntire

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

ATLANTA, OCTOBER 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0038

DEBORAH HINTON-LYNCH V. CHESARE S. HORTON

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

96004

0610467928

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 16 2006

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

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

Will L. Mat...

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 28 2006**

**A07I0030. VIDEO WAREHOUSE, INC. v. FELICIA NEWSOME, AS
SURVIVING SPOUSE ET AL.**

A07D0039. VIDEO WAREHOUSE, INC. v. FELICIA NEWSOME.

On August 17, 2006, the State Court of Coffee County entered a dismissal of this wrongful death action. With a view to insuring that the matter will be preserved for appeal, Video Warehouse, Inc. has filed the two above captioned applications and indicates that it intends to file a notice of appeal. By telephone, the state court clerk has confirmed the timely filing of a notice of appeal. Therefore, since the case is no longer pending below and is not described in OCGA § 5-6-35 (a), and the dismissal order appears subject to appeal pursuant to OCGA § 5-6-34 (a), the applications are unnecessary and ordered DISMISSED. See *Spivey v. Hembree*, 268 Ga. App. 485, 486 (n. 1) (602 SE2d 246) (2004) and OCGA § 5-6-35 (j).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2006

*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.*

Willie L. Martinez, Clerk.

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

ATLANTA, OCTOBER 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0040
AXSON TIMBER CO., ET AL V. KENNETH WILSON

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.

98004
2006CV1427

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 17 2006**

*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. L. Mat... [Signature]

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

ATLANTA, OCTOBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0041

BENJAMIN J. MARTIN V. CITY OF MARIETTA, GA., ET AL

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

90004

061328740

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 18 2006**

*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

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

ATLANTA, OCTOBER 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0042

CHERWOOD, INC., D/B/A PAK-MAIL ET AL V. MARLIN LEASING CORP.

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

70004

04CV2877

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 19 2006

*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. Matz

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

ATLANTA, OCTOBER 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0043
CITY OF ATLANTA ET AL V. WILLIAM EDWARDS

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

97004

2006CV118290

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 17 2006**

*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.

Willi L. Matia

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

ATLANTA, OCTOBER 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0044

TOMMY MCBRIDE REALTY, INC V. SAM NICHOLSON

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.

93004

290652

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 05 2006

*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.

Willie L. Martinez

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

ATLANTA, OCTOBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0045
LORENZO LEBREE BANKS 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.

94004
05CR288

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

OCT 18 2006

*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. Matz

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 19 2006**

A07D0046. GARVIN v. THE STATE.

Byron Gomade Garvin is serving a life sentence for armed robbery. His appeal from his conviction was affirmed by this court in an unpublished opinion. *Garvin v. State*, 214 Ga. App. XXIX (1994). Garvin has filed an application for appeal from an order denying his motion to vacate void sentence. Even assuming that Garvin was improperly sentenced as a recidivist, as he alleges, a trial court may sentence a defendant to life imprisonment for armed robbery regardless of whether the defendant is deemed a recidivist. OCGA § 16-8-41 (b); *Johnson v. State*, 274 Ga. App. 848, 849 (2) (619 SE2d 488) (2005). An order denying a motion to correct a void sentence is independently appealable only where the sentence imposed is alleged to be greater than the maximum sentence allowed by law. *Jones v. State*, 278 Ga. 669, 670-671 (604 SE2d 483) (2004). Because Garvin cannot show that his sentence for armed robbery exceeds the maximum allowed by law, his application for appeal from a non-appealable order is hereby *dismissed* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 19 2006**

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

William M. ..., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

OCT 13 2006

The Court of Appeals hereby passes the following order:

A07D0047. Clarence Quinton Gibson v. The State

Clarence Gibson, proceeding pro se, seeks a discretionary appeal from the trial court's denial of his "Motion to Correct Sentence; Void for Vagueness." However, the copy of the order included in the application materials was not stamped "filed" by the court clerk as required by OCGA § 5-6-35 (c) and Rule 32 (b) of the Court of Appeals. On September 28, 2006, this court issued an order to Gibson directing him to supplement the application within ten days with a file stamped copy of the order appealed from and stressed that the application would be dismissed if the document was not timely filed with this court. Gibson has failed to comply with the court's order and the clear mandate of OCGA § 5-6-35 (c) and Rule 32 (b); therefore, his application is fatally deficient and is hereby DISMISSED. See Court of Appeals Rule 7.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 13 2006

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the minutes of the Court of Appeals of Georgia.*

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Will L. Martinez

, Clerk.

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

ATLANTA, NOVEMBER 02, 2006

The Court of Appeals passed the following order

Case No. A07D0048

LYDIA F. GUISE V. MICHAEL L. THURMOND COMMISSIONER OF LABOR
ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 02, 2006*

*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. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 24 2006**

A07D0049. WILLIAM EUGENE TAYLOR v. THE STATE.

On May 25, 2006, William Eugene Taylor filed a pro se application for discretionary appeal from an order entered on April 13, 2006, denying his motion to set aside conviction and extraordinary motion for new trial. Because Taylor failed to file his application within 30 days of April 13 as required by OCGA § 5-6-35 (d), we issued an order dismissing his application which was docketed as A06D0357. In so doing, we explained that even though Taylor is incarcerated, filing a timely application and supplying the required filing fee or a sufficient pauper's affidavit are nevertheless mandatory in order to invoke this Court's appellate jurisdiction.

On September 28, 2006, Taylor filed an application from an order entered on August 22, 2006, denying his "Motion to Vacate and Set Aside the Judgment Entered Denying the Two Part Post Conviction Motion." Taylor's filing on September 28 was not timely filed. Taylor, in essence, argues that as a pro se litigant who is in prison, he should not be held to the same strict rules of appellate procedure. The Georgia Supreme Court rejected this argument in *Riley v. State*, 280 Ga. 267, 268 (626 SE2d 116) (2006). The Supreme Court held that even pro se prisoner litigants are not exempt from complying with the statutory time requirements when filing non-habeas criminal appeals. *Id.* at 268. Because Taylor's application was not filed within 30 days of the entry of the order about which he seeks to complain, this application is untimely and must be DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 24 2006**

*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.*

Willie L. Mat... , Clerk.

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

ATLANTA, OCTOBER 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0050

RUBY TURNER V. ATLANTA INDEPENDENTSCHOOL SYSTEM, ET AL

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

96005

2005CV102037

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 30 2006**

*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.

Willie L. Martinez

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

ATLANTA, OCTOBER 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0051

LEE CONTAINER CORPORATION / STRATEGIC COMP SERVICES

V. MARY MIXON

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

98005

06V122

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 30 2006

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hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martinez

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

ATLANTA, OCTOBER 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0052

JOSEPH HORESH V. SAMUEL T. DEKINDER ET AL

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

90005

05VS088955

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 19 2006

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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.

Willi L. Mat... [Signature]

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

ATLANTA, OCTOBER 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0053

CHICHESTER'S BACONSFIELD PHARMACY V. GEORGIA DEPARTMENT OF
COMMUNITY HEALTH

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

91005

2005CV109206

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 24 2006**

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the minutes of the Court of Appeals of Georgia*

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

Willie L. Martinez

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

ATLANTA, OCTOBER 31, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0054

VICKI COCHRAN V. BRUNO'S SUPERMARKETS, INC., ET AL

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

70005

06CV334

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 31 2006**

*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.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 24 2006**

A07D0055. JOHNNY C. DEWARREN v. THE STATE.

Johnny C. Dewarren filed this pro se discretionary application to seek review of the trial court's order entered on September 6, 2006 that denied his extraordinary motion for new trial. Extraordinary motions for new trial are disfavored and a stricter rule is applied to an extraordinary motion for new trial based on the ground of newly available evidence than to an ordinary motion on that ground. *Dick v. State*, 248 Ga. 898, 899 (1) (287 SE2d 11) (1982). An extraordinary motion for new trial which fails to demonstrate any merit may be denied without the necessity of a hearing. *Fulford v. State*, 222 Ga. 846, 847 (152 SE2d 845) (1967).

Dewarren already has challenged his conviction by direct appeal to this Court and the judgment was affirmed in an unpublished opinion, *Dewarren v. State*, 246 Ga. App. XXVI, A00A2343, issued on October 24, 2000. Our prior decision is res judicata. See *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991). Although Dewarren now seeks additional review, he failed to set forth any issues that could entitle him to a second appeal in this Court. See *Daniels v. State*, 244 Ga. App. 522, 523 (536 SE2d 206) (2000) (defendant foreclosed from raising issues addressing the validity of his conviction when conviction previously reviewed by appeal).

When, as here, a defendant attempts a second appeal of the same judgment of conviction, "it is improper and should be dismissed." *Miller v. State*, 277 Ga. 372

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

ATLANTA, OCTOBER 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0056
WILLIAM DONALD ANDREWS V. THE STATE

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

93005

96CR17809

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 17 2006**

*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. Martinez

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

ATLANTA, OCTOBER 31, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0058
SHERRI LYNN ARNOLD V. THE STATE

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

92005

04CR16411

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

OCT 31 2006

*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.

Willi L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 01 2006**

A07D0032, A07D0059. THOMAS J. MADDOX v. CORNERSTONE BAPTIST CHURCH. (two cases)

These applications seek review of the grant of a motion to enforce settlement in a nuisance and trespass action. With respect to the order sought to be appealed, applicant Thomas J. Maddox has filed discretionary applications in this Court and in the Supreme Court, as well as a notice of appeal in the trial court. After a number of transfers between the appellate courts, both discretionary applications are now before this Court for resolution. Since this is a case enumerated in OCGA § 5-6-34 (a), but not in OCGA § 5-6-35 (a), no discretionary application was required. And, because Maddox indicates that he has filed a notice of appeal, which is presumed to be timely, there is no possibility of an appeal pursuant to OCGA § 5-6-35 (j). Accordingly, these two discretionary applications are ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 01 2006**

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Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

NOV 02 2006

A07D0060. THE PANTRY, INC. ET AL. v. ROCA.

The Pantry, Inc. and Gallagher Bassett Services ("The Pantry") seek discretionary review of the superior court's order affirming a decision of the State Board of Workers' Compensation, which assessed attorney fees against them.

This case arose when, after working at The Pantry for approximately 3 - 4 months, Sara Roca began to experience wrist and hand pain. After the Pantry refused to approve Roca for medical treatment, she sought it on her own, was diagnosed with carpal tunnel syndrome, and was told the same resulted from her job. The Pantry then referred Roca to a physician who confirmed these findings.

The Pantry disputed Roca's claim on the grounds that there was conflicting medical evidence as to whether she suffered from carpal tunnel syndrome. The ALJ awarded benefits in favor of Roca and assessed attorney fees against The Pantry, concluding that it had defended the claim without reasonable grounds. The Appellate Division affirmed the award and the assessment of attorney fees, finding that although there was some conflicting medical evidence, The Pantry's refusal to provide Roca with treatment after she reported her injury to her supervisor was unreasonable.

The Pantry argues that because there was conflicting medical evidence as to whether Roca suffered from the injury she claimed, both its initial refusal to provide her with medical treatment and its defense of the claim were reasonable as a matter of law, and the Board erred in assessing attorney fees against it. There is no legal authority, however, which supports The Pantry's assertion regarding the reasonableness of its initial refusal to provide Roca with medical treatment. In light of this fact, and because there was sufficient evidence in the record to support the

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

ATLANTA, NOVEMBER 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0061

BETTY BAILEY ET AL V. ELLA MCNEALY EXECUTRIX OF THE ESTATE OF
GEORGE DAVIS SR.

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

95006

05CV268

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 03 2006

*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.

Willi L. Mat... [Signature]

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

ATLANTA, NOVEMBER 17, 2006

The Court of Appeals passed the following order

Case No. A07D0061

BETTY BAILEY ET AL V. ELLA MCNEALY EXECUTRIX OF THE ESTATE OF
GEORGE DAVIS SR.

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 17, 2006*

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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. L. Martin

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

ATLANTA, OCTOBER 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0062

BIBB COUNTY BOARD OF EDUCATION V. SANDRA T. BEMBRY

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.

98007

06CV45354

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 30 2006**

*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

Court of Appeals of the State of Georgia

ATLANTA, OCT 13 2006

The Court of Appeals hereby passes the following order:

A07D0063. JULIE A. RAMSEY v. JOHN W. RAMSEY.

Julie A. Ramsey seeks an appeal from the trial court's ruling on her motion for contempt in which she sought to enforce certain provisions of the parties' final divorce decree. Because the ruling complained of directly addresses enforcement of the non-custodial provisions of a final divorce decree, Ramsey's application is TRANSFERRED to the Supreme Court for disposition. Const. of 1983, Art. VI, § 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); *Hines v. Hines*, 237 Ga. 755, 756 (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 within the Court of Appeals).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 13 2006

*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. Mat... .., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 03 2006**

A07D0064. GLOVER v. THE STATE.

Vonterelle Glover seeks an appeal from an order denying his motion to set aside a forfeiture and distribution order entered in October 2005. The order complained of was entered on September 5, 2006. Glover did not file his application with this court until October 6, 2006. Because Glover failed to file his application 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. *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 03 2006**

*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. Matz, Clerk.

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

ATLANTA, DECEMBER 07, 2006

The Court of Appeals passed the following order

Case No. A07D0064

VONTERELLE GLOVER V. THE STATE

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 07, 2006*

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: January 12, 2007

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 **S07C0650**

VONTERELLE GLOVER v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0064

JAN 17 2007

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 30 2006**

A07D0066. RONNIE LAMAR BAKER v. THE STATE.

Ronnie Lamar Baker, *pro se*, filed this application for discretionary appeal to challenge the trial court's denial of his "Motion to Void Judgment Due to Improper Venue Under OCGA § 17-2-2." According to Baker, he was convicted of murder and the trial court imposed a life sentence. In *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984), the Supreme Court directed that we transfer appeals from all murder convictions to that Court. Accordingly, this application is TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 30 2006**

*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. Martin, Clerk.

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

ATLANTA, NOVEMBER 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0067

CATHY FLOYD REAVES V. DWIGHT DEMONDE REAVES

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

97006

05CV018

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 06 2006

*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

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

ATLANTA, NOVEMBER 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0068

GREGORY BELL V. THE STATE

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

93006

200FE224F

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 03 2006**

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 06 2006**

A07D0069. BARABBAS RAMON CURTIS v. THE STATE.

Barabbas Ramon Curtis, pro se, has filed a timely application for discretionary appeal seeking review of an order denying his motion to correct illegal sentence. In his motion, Curtis asserted that a void sentence was imposed. The denial of a motion to correct a void sentence is directly appealable. *Williams v. State*, 271 Ga. 686, 688-689 (1) (523 SE2d 857) (1999). Accordingly, Curtis's application is GRANTED pursuant to OCGA § 5-6-35 (j).

Curtis 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 **NOV 06 2006**

*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. Matz , Clerk.

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

ATLANTA, NOVEMBER 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0070
SANDRA MCCOLLUM V. MARK LUEDEKE

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

92006

05CV2954C

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 13 2006**

*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. Mat... [Signature]

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

ATLANTA, NOVEMBER 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0071

DRUID HILLS CIVIC ASSOCIATION, INC., ET AL V. DEKALB COUNTY, GEORGIA,
ET AL

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

99006

03CV80582

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 07 2006

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

NOV 13 2006

A07D0072. SHELLY TORICK v. MICHAEL FREDEBEIL.

Shelly Torick filed this application for discretionary appeal, seeking review of the trial court's September 18, 2006 order granting Michael Fredebeil's motion for reconsideration of the court's August 30, 2006 "Final Order" on custody of the parties' minor children. By its express terms, the order only temporarily awards custody to the father, stating that the court would not rule on the mother's petition for change of custody before the end of the current school year. Thus, the application reveals that the superior court, in fact, has not made a final ruling in this case. "Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995). Because the order appealed from is not a final order, Torick was required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. Accordingly, this Court is without jurisdiction to consider this application, which is therefore DISMISSED.

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

NOV 13 2006

*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.*

Willie L. Mat..., Clerk.

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

ATLANTA, DECEMBER 05, 2006

The Court of Appeals passed the following order

Case No. A07D0072

SHELLY TORICK V. MICHAEL FREDBEIL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 05, 2006*

*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.

Willie L. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: December 21, 2006

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 **S07C0563**

SHELLY TORICK v. MICHAEL FREDBEIL

Clerk, Supreme Court of Georgia

Case No. A07D0072

Court of Appeals of Georgia

Notice of Petition for Certiorari

DEC 23 2006

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: NOV 09 2006

A07D0073. JEFFERY ALAN PITTS v. CHRISTINE HARRISON PITTS.

On October 18, 2006, Jeffery Alan Pitts filed this discretionary application from a judgment entered by the trial court on June 30, 2006, ordering him to pay additional child support. OCGA § 5-6-35 (d) requires that an application for discretionary review must be filed with this Court within 30 days of the entry of the order, judgment, or decision sought to be appealed. By law, this Court lacks jurisdiction to consider an untimely application. Since Pitts's application was filed 110 days after entry of the final order at issue, the application is untimely. Accordingly, this application for discretionary appeal is ordered DISMISSED.

After review, Christine Pitts's motion for attorney's fees and litigation expenses is ordered DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 09 2006

*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. Mat..., Clerk.

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

ATLANTA, NOVEMBER 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0074

ATLANTA INDEPENDENT SCHOOL SYSTEM V. LATONIA MCDANIELS

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

95007

2006CV114915

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 16 2006

*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.

Willie L. Mat... [Signature]

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

ATLANTA, NOVEMBER 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0075
LUCILLE BUTTS V. TIM CLARKE, D/B/A CENTRAL GEORGIA LAND
MANAGEMENT

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

96006
05CV182

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 09 2006

*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.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 13 2006**

A07D0076. VILLANI v. HUGHES.

Defendant Ralph J. Villani has filed an application for discretionary appeal from an order granting plaintiff's motion to compel post-judgment discovery. In his application Villani argues, among other things, that the underlying 2004 judgment is void and unenforceable due to the court's failure to file a case disposition form as required under OCGA § 9-11-58 (b), as amended effective July 1, 2006. Because it appears that the discretionary appeal procedure is inapplicable here, OCGA § 5-6-35 (j) requires that this court grant Villani's application regardless of the underlying merits. The application is therefore *granted* and Villani shall have ten days from the date of this order to file his notice of appeal. The state court is instructed to include a copy of this order in the record transmitted to this court.¹

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 13 2006**

*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 L. McIntosh* Clerk.

¹Respondent is advised that because failed to file a formal motion, his mere request for sanctions in his response brief is not properly before the court. Moreover, because the substantive arguments presented by Villani are immaterial to the disposition of this application we decline to consider the imposition of sanctions *sua sponte* under Court of Appeals Rule 15 (b) at this time.

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

ATLANTA, NOVEMBER 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0077
HUGHES SUPPLY, INC. ET AL V. PROSPERO HERNANDEZ

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

90007

2006CV120948

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 13 2006**

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 16 2006**

**A07D0078. ALBERT FIFE ET AL. v. AMELIA GROVE/ ASHLAND PARK
HOMEOWNERS ASSOCIATION, INC.**

On October 24, 2006, Albert and Jacqueline Fife, *pro se*, filed this application for discretionary appeal, seeking review of the State Court of Gwinnett County's June 7, 2006 order denying their motion to set aside summary judgment. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because the Fifes filed their application in this Court more than thirty days after entry of the order they seek to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is thus DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 16 2006**

*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. Martin, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: December 27, 2006

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 **S07C0574**

ALBERT FIFE et al. v. AMELIA GROVE et al.

Clerk, Supreme Court of Georgia

Case No. A07D0078

Court of Appeals of Georgia

DEC 29 2006

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, NOVEMBER 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0079

MARCUS HARRIS V. THE STATE

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

70007

2006CR000036

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

NOV 22 2006

*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. L. Martin

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

ATLANTA, NOVEMBER 15, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0080
CHAD ALAN CASPER V. SHANNON MARIE CASPER

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

97007

2006SUCV701

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 15 2006

*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. Matz

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

ATLANTA, NOVEMBER 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0081

DIANA GOWINS V. W.E. GARY

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.

94007

2005CV108224

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 22 2006

*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. Martinez

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

ATLANTA, NOVEMBER 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0082
WILLIE VAN DER WESTHUIZEN ET AL V. DEKALB COUNTY BOARD
OF COMMISSIONERS 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.

92007

05CV130259

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 22 2006**

*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.

Willie L. Martin

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

ATLANTA, NOVEMBER 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0083
MICHAEL A. ROBERTS V. SHAWN LIVINGSTON

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

99007

DR051094

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 21 2006

*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

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

ATLANTA, NOVEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0085
ROOSEVELT BURKS V. SECURIGUARD ET AL

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

95008

06V0904

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 28 2006

*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.

Willi L. Martin

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

ATLANTA, DECEMBER 28, 2006

The Court of Appeals passed the following order

Case No. A07D0085

ROOSEVELT BURKS V. SECURIGUARD ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 28, 2006*

*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. Matia

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: January 17, 2007

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 **S07C0667**

ROOSEVELT BURKS v. SECURIGUARD et al.

Clerk, Supreme Court of Georgia

Case No. A07D0085

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 22 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: NOV 17 2006

A07D0086. TANYA CUBBEDGE v. THOMAS GAMBLE CUBBEDGE ET AL.

Tanya Cubbedge filed this discretionary application seeking to appeal that part of the superior court's order granting summary judgment to the defendants on one count of Ms. Cubbedge's complaint. Ms. Cubbedge filed the complaint against the defendants, her former husband and his parents, seeking a declaratory judgment and alleging tortious interference with contractual relations.¹

Apparently, Ms. Cubbedge seeks a declaration that she is entitled to one-fifth of the assets her former parents-in-law transferred into a family limited partnership because the settlement agreement incorporated into her divorce decree had given her the right to one-fifth of any inheritance her former husband ever receives. She also contends that her former parents-in-law tortiously interfered with the settlement agreement incorporated into the divorce decree.

The trial court granted the defendants complete summary judgment. Ms. Cubbedge filed this discretionary application seeking to appeal the ruling on her declaratory judgment count. She also filed a notice of appeal.

Ms. Cubbedge followed the discretionary appeal procedures to appeal the grant of summary judgment on her declaratory judgment count because that count "flows from a separation agreement entered into incident to a divorce." As the Supreme Court observed when it transferred Ms. Cubbedge's application to this court, persons who

¹Although Ms. Cubbedge has not attached a copy of her complaint to her discretionary application, she describes the complaint in her application and the superior court describes it in its order granting summary judgment.

were not parties to the final divorce decree were included as defendants, the case does not involve a challenge to the decree or an alleged contempt of that decree, and Ms. Cubbedge does not seek the recovery of alimony or child support. For these reasons, we conclude, the case is not a domestic relations case and the superior court's order granting summary judgment is subject to direct appeal. *Bryant v. Employees Retirement Sys.*, 264 Ga. 125, 126 (441 SE2d 757) (1994) ("action to enforce a provision in a judgment, albeit a divorce judgment, against a defendant who was not a party to the divorce is analogous to a garnishment action, for which no application pursuant to OCGA § 5-6-35 (a) (2) is required"). Compare *Walker v. Estate of Mays*, 279 Ga. 652, 653 (619 SE2d 679) (2005) ("where, as here, the underlying subject matter of a lawsuit relates to such rights and obligations, and the parties are the ex-spouses, their children or their legal representatives, the case involves domestic relations and compliance with OCGA § 5-6-35 is the exclusive means by which to appeal the final order in the action").

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, Ms. Cubbedge filed a timely notice of appeal. Thus, OCGA § 5-6-35 (j) does not apply and this application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 17 2006

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. Martinez, Clerk.

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

ATLANTA, NOVEMBER 27, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0087
JOHN M. BAILEY V. DEBRA BAILEY

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.

98008

05CV109374

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 27 2006

*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. L. Martin

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

ATLANTA, DECEMBER 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0089
GEORGE BRAGG BOYD V. JENNIFER MICHELLE GREGORY F/K/A
JENNIFER MICHELLE BOYD

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

91008

061633348

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

DEC 06 2006

*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.

Willie L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: December 21, 2006

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 **S07C0552**

GREGORY BRAGG BOYD v. JENNIFER MICHELLE GREGORY, f/k/a BOYD

Clerk, Supreme Court of Georgia

Case No. A07D0089

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

DEC 22 2006

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 2007**

A07D0090. JANE FORMBY v. WILLIAM H. EDWARDS.

Jane Formby filed a petition to modify alimony. She subsequently filed this application for discretionary appeal from the denial of her motion to disqualify the trial judge in the case. We transferred the application to the Supreme Court on the basis that it involved alimony and divorce. See Const. of 1983, Art. VI, § VI, Par. III (6). The Supreme Court, however, transferred the case back to this Court for disposition. The application materials reveal, however, that the superior court has not made a final ruling in this case. "Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995). Because the order appealed from is not a final order, Formby was required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. Accordingly, this Court is without jurisdiction to consider this application, which is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 08 2007**

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

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

Willi L. Mat... , Clerk.

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

ATLANTA, NOVEMBER 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0091
SANDY T. CHANCEY V. Y.K.K. (USA) INC.

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

97008

06CV45366

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

NOV 22 2006

*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. Mat... [Signature]

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

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 12 2007

A07D0092. MILLER v. THE STATE.

By an order entered December 5, 2006, this application was dismissed because Appellant did not submit a stamped "filed" copy of the order sought to be appeal, as ordered by the Court on November 13, 2006. Appellant submitted a stamped copy of the order with his motion for reconsideration, and after review, the motion is GRANTED and the application is reinstated.

Upon consideration of the application on its merits, however, the application is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 12 2007

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 17, 2007

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 **S07C0820**

WILLIAM JACK MILLER v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0092

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 19 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, DECEMBER 04, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0093

ROBERT J. MICHNA V. BLUE CROSS AND BLUE SHIELD OF GEORGIA, 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.

94008

CV060710

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 04 2006**

*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. Mat... [Signature]

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

ATLANTA, DECEMBER 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0094
MATTHEW BRANDON HAYNES V. THE STATE

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

92008

06CR147A

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 14 2006

*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. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: NOV 28 2006

A07D0095. BRUCE T. JONES v. THE STATE

Bruce T. Jones has filed this second application for discretionary appeal. The first appeal was returned for failure to contain a certificate of service or a stamped filed copy of the order he was attempting to appeal. This second application still fails to contain a filed stamped copy of the order on appeal. Court of Appeals Rule 31 (d), provides that “[d]iscretionary appeals must contain a stamped ‘filed’ copy of the trial court’s order from which the appeal is sought.” Further, Jones previously filed a direct appeal from the order denying his motion for out-of-time appeal which this Court dismissed because it was untimely and because he was required to comply with the discretionary appeal requirements as the underlying subject matter of his appeal was the revocation of his probation. See A07A0113 (September 6, 2006). Thus, even if Jones had submitted a file stamped order in this application, it would have been untimely. Because Jones’ failed to comply with this Court’s rules and statutory requirements, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta NOV 28 2006

*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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

DEC 13 2006

A07D0096. JESSIE RAY COX v. THE STATE.

A07D0097. JESSIE RAY COX v. MAYOR OF THE CITY OF DULUTH et al.

On October 30, 2006, Jessie Ray Cox, *pro se*, filed an application for discretionary appeal in the Georgia Supreme Court seeking review of the superior court's September 26, 2006 order dismissing his motion for recusal and motion to set aside judgment. The Supreme Court transferred that case to this Court, which was docketed as discretionary application A07D0097. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Cox filed application A07D0097 in the Supreme Court thirty-four days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Cox also filed an application for discretionary appeal on October 30, 2006 in the Supreme Court seeking review of the state court's order denying his "Motion to Set Aside Nolle Prosequi." The Supreme Court transferred that case to this Court, which was docketed as discretionary application A07D0096. Upon consideration of that application on the merits, it is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 13 2006

*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. Martin
Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

JAN 12 2007

The Court of Appeals hereby passes the following order:

A07D0096. JESSIE RAY COX v. THE STATE.

A07D0097. JESSIE RAY COX v. MAYOR OF THE CITY OF DULUTH et al.

Jessie Ray Cox, *pro se*, filed a "Motion Applying for Writ of Prohibition" in application A07D0096, which this Court treated as a motion reconsideration of its order denying his motion for reconsideration of this Court's order dismissing the application in A07D0097. Cox has now filed motions for reconsideration in A07D0096 and A07D0097. We note first that Cox failed to obtain permission to file a second motion for reconsideration for either application. See Court of Appeals Rule 37 (d). Upon consideration of the motions for reconsideration in A07D0096 and A07D0097, the motions are both DENIED.

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

JAN 12 2007

*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.*

Willie L. Mat... , Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: April 10, 2007

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 **S07C1126**

JESSIE RAY COX v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0096

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 12 2007

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 13 2006

A07D0096. JESSIE RAY COX v. THE STATE.

A07D0097. JESSIE RAY COX v. MAYOR OF THE CITY OF DULUTH et al.

On October 30, 2006, Jessie Ray Cox, *pro se*, filed an application for discretionary appeal in the Georgia Supreme Court seeking review of the superior court's September 26, 2006 order dismissing his motion for recusal and motion to set aside judgment. The Supreme Court transferred that case to this Court, which was docketed as discretionary application A07D0097. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Cox filed application A07D0097 in the Supreme Court thirty-four days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Cox also filed an application for discretionary appeal on October 30, 2006 in the Supreme Court seeking review of the state court's order denying his "Motion to Set Aside Nolle Prosequi." The Supreme Court transferred that case to this Court, which was docketed as discretionary application A07D0096. Upon consideration of that application on the merits, it is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 13 2006

*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.*

Willie L. Martin
Clerk.

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

ATLANTA, JANUARY 12, 2007

The Court of Appeals passed the following order

Case No. A07D0097

JESSIE R. COX V. MAYOR OF THE CITY OF DULUTH ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 12, 2007*

*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.

Willi L. Martin

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

ATLANTA, DECEMBER 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0098
RENU THRIFT STORE, INC., ET AL V. DEISY FIGUEROA

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.

95009

06CV2913M

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 07 2006

*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 L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

PROPOSED ORDER (A07D0099.96) November 21, 2006 (by Derrico)	
AGREE	DISAGREE
<i>GRJ</i> <i>HEB</i> <i>LBW</i>	

The Court of Appeals hereby passes the following order:

A07D0099. CHARLES LAMONT MILLER v. TIFTON POLICE DEPARTMENT ET AL.

Charles Lamont Miller, a prison inmate proceeding pro se, filed this application for discretionary appeal from a September 28, 2006 order granting summary judgment to the defendants. Miller's application was docketed in this Court November 17, 2006.¹ An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Miller filed his application 50 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, 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.*

, Clerk.

¹The Court first received Miller's application on October 23, 2006. The Court rejected the application for filing because Miller failed to include a certificate of service in violation of Court of Appeals Rule 6.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: December 27, 2006

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 **S07C0583**

CHARLES LAMONT MILLER v. TIFTON POLICE DEPARTMENT et al.

Clerk, Supreme Court of Georgia

Case No. A07D0099

DEC 29 2006

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA,

DECEMBER 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0100

ARTARIUS POWELL 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.

98009

04CR325

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 07 2006

*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. Martinez

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

ATLANTA, DECEMBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0101

DEKALB COUNTY, GEORGIA ET AL V. ROBERT H. BUCKLER 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.

90009

06CV37132

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 18 2006

*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. Martinez

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

ATLANTA, DECEMBER 08, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0102

SAMUEL JASON PRINTZ V. GWINNETT COUNTY (STATE) ET AL

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

91009

06A083313

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 8 2006

*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. McIntire

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

ATLANTA, DECEMBER 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0103
VIVIAN TUONG GIANG 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.

70009

04B20538

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **DEC 11 2006**

*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.

Willie L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 12 2006**

A07D0104. FRED L. MURRAY, JR. v. FRED L. MURRAY, SR.

This application arises from a dispossessory proceeding brought by Fred L. Murray, Sr. against Fred L. Murray, Jr. in the Magistrate Court of DeKalb County. After the magistrate court issued an eviction order, Fred L. Murray, Jr. filed an appeal in the Superior Court of DeKalb County. On October 24, 2006, the superior court entered an order denying Murray Jr.'s appeal of the magistrate court's eviction order. The superior court found that Murray Jr. was a tenant at sufferance and that Murray Sr. was entitled to a writ of possession and to judgment in his favor.

On November 21, 2006, Murray Jr. filed an application for discretionary appeal in this Court. OCGA § 44-7-56 requires that an appeal from a dispossessory judgment must be filed within seven days of the date that such judgment was entered. Because Murray Jr.'s application was not filed within seven days of the entry of the dispossessory judgment, his application is untimely and this Court lacks jurisdiction to consider it. *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 12 2006**

*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. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: DEC 08 2006

A07D0105. CITY OF ATLANTA BOARD OF ZONING ADJUSTMENT v. RAMSEY AGAN.

The City of Atlanta Board of Zoning Adjustment ("BZA") filed this discretionary application seeking to appeal a superior court order remanding the case to the BZA for consideration of Ramsey Agan's claim of an equal protection violation. Because the case remains pending below and because the BZA failed to follow the required procedure for taking an interlocutory appeal, the application is premature. *Mayor &c. of Hinesville v. Gustin*, 178 Ga. App. 776 (344 SE2d 744) (1986). Compare *Georgia PSC v. Campaign for a Prosperous Georgia*, 229 Ga. App. 28 (492 SE2d 916) (1997) (remand order was not interlocutory because rather than remanding for additional evidence that would facilitate a final review of the issue, the superior court made a final determination that the challenged process constituted a rate case requiring a full hearing). Moreover, the BZA's compliance with the discretionary application statute does not relieve it from complying with the interlocutory application statute. *Scruggs v. Dep't of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). As we lack jurisdiction, the instant application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 08 2006

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.

Willie L. Martin, Clerk.

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

ATLANTA, DECEMBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0106
RON J. BROWN ET AL V. STATE OF GEORGIA, EX. REL., CATHY COX,
SECRETARY OF STATE ET AL

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

94009

03A035174

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 18 2006

*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. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: January 08, 2007

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 **S07C0632**

RON J. BROWN et al. v. STATE OF GEORGIA, Ex Rel., CATHY COX

Clerk, Supreme Court of Georgia

Case No. A07D0106

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent to SC
JAN 10 2007

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 11 2006**

A07D0107. JONES v. THE STATE.

Paul R. Jones entered a guilty plea to armed robbery charges in December 1997, and was sentenced to 15 years in prison. He now seeks a discretionary appeal from an order denying his motion for an out-of-time appeal. Because the order complained of is not subject to the discretionary appeal procedure, Jones's application for appeal is hereby *granted* as required under OCGA § 5-6-35 (j). If he has not already filed one, Jones shall have ten days from the date of this order to file his notice of appeal in 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 **DEC 11 2006**

*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.*

Willie L. Martin

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 07 2006**

A07D0108. MARVIN MOYER v. THE STATE.

Marvin Moyer seeks review of the trial court's order denying his "Motion to Set Aside Judgment" and his "Motion for Compliance." Although Moyer seeks to set aside the judgment pursuant to OCGA § 9-11-60 (d), that provision only applies to civil proceedings and there is no evidence of a civil action in this application. Instead, Moyer challenges his criminal convictions. Moyer was convicted on April 15, 2003. He filed a motion for new trial and an amended motion for new trial which were denied. His conviction was affirmed by this Court in *Moyer v. State*, 275 Ga. App. 366 (620 SE2d 837) (2005). Because Moyer raises no issues that could entitle him to another appeal in this Court, we lack jurisdiction to consider this application. See *Daniels v. State*, 244 Ga. App. 522, 523 (536 SE2d 206) (2000) (defendant may not raise issues addressing the validity of the underlying conviction when that conviction has been previously reviewed by appeal). When a defendant attempts a second appeal of the same judgment of conviction, "it is improper and should be dismissed." *Miller v. State*, 277 Ga. 372 (589 SE2d 108 (2003)). Therefore, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 07 2006**

*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. Mat..., Clerk.

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

ATLANTA, DECEMBER 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0109
ERIC BARON CHESTER 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.

95010
03CR480

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 14 2006**

*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.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

DEC 13 2006

A07D0110. RICHARD RICARDO SLATER v. THE STATE.

On March 21, 2001, Richard Ricardo Slater entered a guilty plea to possession of marijuana with intent to distribute and driving with a suspended or revoked license. The trial court sentenced Slater to ten years' probation on the marijuana count and 12 months' probation on the license count. On May 22, 2003, the trial court revoked Slater's probation. Slater filed a "Motion for New Trial on Probation Violation" on June 3, 2005, and an amended motion for new trial on August 8, 2005. Slater's motion for new trial as amended was denied on October 26, 2006. Slater then filed this application for discretionary appeal on November 27, 2006.

As this is a probation revocation case, Slater was required to comply with the discretionary appeal procedures. *Scriven v. State*, 179 Ga. App. 513 (346 SE2d 906) (1986); OCGA § 5-6-35 (a) (5) & (b). To satisfy the statutory time requirements, Slater had to apply for discretionary review or file a motion for new trial within 30 days of May 22, 2003, but he did not do so. Slater's untimely motion for new trial did not extend the period for applying for discretionary review. See *Porter v. State*, 271 Ga. 498 (521 SE2d 566) (1999). Because Slater failed to comply with the discretionary appeal procedures, we do not have jurisdiction to address his grievances. See *Todd v. State*, 236 Ga. App. 757, 758 (513 SE2d 287) (1999). Therefore, this application is DISMISSED for lack of jurisdiction. See *Hill v. State*, 204 Ga. App. 582, 583 (420 SE2d 393) (1992).

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

DEC 13 2006

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, DECEMBER 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0111
WARE COUNTY GEORGIA ET AL V. THE JONES COMPANY

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.

98010
04V0374

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 12 2006**

*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

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

ATLANTA, DECEMBER 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0112
LAURIE M. HATCH V. JEFFREY HATCH

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

90010
05V1952

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 20 2006

*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.

Willie L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order:

DEC 07 2006

A07D0113. SCARBOROUGH v. SCARBOROUGH.

Charles Dunn Scarborough seeks a discretionary appeal from an order of the superior court entered in a contempt action brought by the respondent involving the child support provisions of the parties' final divorce decree. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Scarborough's application is therefore ordered *transferred* to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 07 2006

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. Mat... , Clerk.

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

ATLANTA, DECEMBER 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0114
HARDCO, INC. ET AL V. SHANNON BRASWELL

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

70010

2006SUCV828

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 20 2006**

*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.*

Will. L. ^{Clerk} McIntosh

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

ATLANTA, DECEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0115
BISHOP EDDIE LONG MINISTRIES, INC., ET AL V. G. DOUGLAS DILLARD
ET AL

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

97010

06CV1033010

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 28 2006**

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

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

Clerk.

Will L. Mat... [Signature]

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

ATLANTA, JANUARY 19, 2007

The Court of Appeals passed the following order

Case No. A07D0115

BISHOP EDDIE LONG MINISTRIES, INC., ET AL V. G. DOUGLAS DILLARD
ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 19, 2007*

*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. Mat... [Signature]

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 07, 2007

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 **S07C0767**

BISHOP EDDIE LONG MINISTRIES, INC., et al. v. G. DOUGLAS DILLARD
et al.

Clerk, Supreme Court of Georgia

Case No. A07D0115

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 08 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, DECEMBER 29, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0116

KEVIN SHIER V. STACEY FLYNN

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

93010

2004V0856H

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 29 2006

*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. Mat... [Signature]

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

ATLANTA, JANUARY 18, 2007

The Court of Appeals passed the following order

Case No. A07D0116

KEVIN SHIER V. STACEY FLYNN

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 18, 2007*

*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.

Willie L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: January 25, 2007

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 **S07C0699**

KEVIN SHIER v. STACEY FLYNN

Clerk, Supreme Court of Georgia

Case No. A07D0116

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, DECEMBER 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0117

RICHARD SEAN GALLAHER V. MARY TERESE BREAU, F/K/A

MARY TERESE GALLAHER

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

94010

06010027242

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 18 2006

*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

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

ATLANTA, DECEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0118
LESA N. JONES V. CEDRIC D. KELLY

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.

92010
2006CV123649

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 28 2006

*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.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 28 2006**

A07D0119. SINKWICH v. CONNER.

Scott A. Sinkwich seeks an appeal from an order awarding attorney's fees in a legitimization action. On October 24, 2006, the superior court entered a post-judgment order awarding the respondent \$7,500.00 in attorney's fees. That order states that Sinkwich did not file a response to the respondent's motion. On October 30, 2006, Sinkwich filed a motion to set aside the October 24 order, informing the court that he did file a timely response to the motion for attorney's fees. On October 31, 2006, the superior court entered an "amendment" to its order, stating that after consideration of Sinkwich's response its original order still stands. It appears that upon learning that respondent's counsel had consented to Sinkwich's motion to set aside in order to allow his response to be considered, the court elected to schedule a hearing on the matter. On November 27, 2006, the superior court entered an order "once again" affirming its award of attorney's fees and denying Sinkwich's motion to set aside the final order. Sinkwich filed his application for appeal to this court on December 4, 2006, enumerating the order awarding attorney's fees.

Because the order complained of was entered on October 24, 2006, and because that final order was never substantively amended or otherwise set aside, this court is without jurisdiction to consider Sinkwich's untimely application for appeal. The superior court had already taken the action reaffirmed in its orders of October 31 and November 27, and those subsequent orders are therefore legal nullities which are substantively indistinguishable from orders denying mere motions for reconsideration. See generally *Masters v. Clark*, 269 Ga. App. 537, 538-539 (604 SE2d 556) (2004). If the superior court had denied Sinkwich's motion to set aside based on the grounds

set forth in his motion and not based solely on the underlying merits of the case, then such an order would of course be subject to a limited appeal. *Crawford v. Kroger Company*, 183 Ga. App. 836 (360 SE2d 274) (1987). If the court had otherwise entered an order granting the motion to set aside in order to revisit the respondent's motion for attorney's fees, then a subsequent order "reaffirming" its original decision would likewise be subject to an appeal as if the original order had never been entered. But that did not happen here. We further note that the motion to set aside cannot be considered a motion for new trial within the meaning of OCGA § 5-6-35 (d) because there was no hearing held before entry of the order of October 24 that could serve as the basis for such a motion. See *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). It follows that Sinkwich's motion was not one that could serve to extend the time for filing an application for appeal. Accord *Atlantic-Canadian Corp. v. Hammer, Siler, George Assoc., Inc.*, 167 Ga. App. 257 (306 SE2d 22) (1983).

For the foregoing reasons, Sinkwich's application for appeal is hereby *dismissed* for lack of jurisdiction.

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

DEC 28 2006

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, JAN 30 2007

The Court of Appeals hereby passes the following order:

A07D0119. SINKWICH v. CONNER.

The Court dismissed the above styled application on the ground that it was not timely filed within 30 days of the order granting attorney's fees entered on October 24, 2006. On motion for reconsideration, applicant Sinkwich asserts that his application was originally submitted on November 22, 2006, but that the submission was returned to him by the Clerk because he included a copy of an unsigned, unfiled "order" that appeared to Clerk's office personnel to be the order he was seeking to appeal. The latter document was not signed and filed as an order of the court until November 27, 2006. Sinkwich thereafter resubmitted the application and it was docketed on December 4, 2006. But as pointed out in our dismissal order, this court ultimately concluded that the only appealable order in the case is the order of October 24. Because Sinkwich demonstrates that his application was effectively complete, timely, and ripe for our consideration when he originally submitted it and that therefore it should have been docketed as of November 22 instead of on December 4, 2006, his motion for reconsideration is *granted* and the order dismissing his application is hereby *vacated*.

Upon consideration of the merits of Sinkwich's application, based upon the very arguments offered by respondent in support of the superior court's decision, appellate review of the superior court's award of attorney's fees appears warranted here. Accordingly, Sinkwich's application for appeal is hereby *granted*. Sinkwich shall have ten days from the date of this order to file his notice of appeal in the superior court. The clerk of the superior court is instructed to include a copy of this order in the record transmitted to this court.

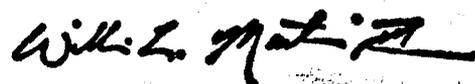
Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 30 2007

*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, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0120

JOHNNY HARBIN V. THE STATE

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

71010

06CR312

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 03 2007**

*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.

Willie L. Matiza

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

ATLANTA, JANUARY 08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0121

STACEY FLYNN V. KEVIN SHIER

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

93011

2004CV0856H

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 08 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 04 2007**

A07D0122. THURSTON WALLER v. THE STATE.

Thurston Waller filed this application for discretionary appeal seeking to appeal the denial of his motion to correct void sentence. Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order as required by Court of Appeals Rule 31 (d). On December 8, 2006, this court ordered Waller 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. Therefore, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 04 2007**

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, DECEMBER 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0123
DERRICK ADAMS ET AL V. G. DOUGLAS
DILLARD, ET AL

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

97011

06CV1030910

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 28 2006**

*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

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

ATLANTA, JANUARY 18, 2007

The Court of Appeals passed the following order

Case No. A07D0123

DERRICK ADAMS ET AL V. G. DOUGLAS
DILLARD, ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 18, 2007*

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 07, 2007

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 **S07C0768**

DERICK ADAMS et al. v. G. DOUGLAS DILLARD et al.

Clerk, Supreme Court of Georgia

Case No. A07D0123

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 08 2007

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 2007**

A07D0124. JOHN COLLEY, JR. v. THE STATE.

On December 11, 2006, John Colley, Jr. filed this application for discretionary appeal from an order entered on October 3, 2006, that revoked part of Colley's probation. To be timely, an application for discretionary appeal must be filed with the clerk of the appropriate appellate court within 30 days of the entry of the order, judgment or decision at issue. OCGA § 5-6-35 (d). Colley's application was not filed until 69 days after the order sought to be appealed and is thus untimely. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). This Court lacks jurisdiction to consider an untimely application.

Apparently recognizing this jurisdictional defect, counsel for Colley has submitted an application for an out-of-time appeal, offering explanations for the delay. We find no authority to grant such an application under OCGA § 5-6-35. See *Department of Offender Rehabilitation v. Meeks*, 165 Ga. App. 269 (299 SE2d 757) (1983). Therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 08 2007**

*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.*

Willie L. Mat... A, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 20 2006**

A07D0125. RONNIE McCOY v. IRAINDA McCOY.

Ronnie McCoy seeks a discretionary appeal from an order finding him in contempt of certain provisions of the parties' final divorce decree. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). McCoy's application is therefore *transferred* to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 20 2006**

*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. Martinez, Clerk.

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

ATLANTA, JANUARY 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0126
SANDRA FRANKLIN 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.

90011

SU06CR1333

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 11 2007**

*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. Martinez

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

ATLANTA, JANUARY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0127

ATLANTA GEORGETOWN CONDOMINIUM ASSOCIATION, INC. V.

MARILYN BERGER

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.

91011

05CV128626

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 18 2007

*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.

Willi L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 05 2007

A07D0128. NORRIS LAKE COMMUNITY BENEFITS CORP. v. DEKALB COUNTY PLANNING COMMISSION

Norris Lake Community Benefits Corp. and Donna Greenwood (“Norris Lake”) seek discretionary review of the superior court’s order granting opposite party, Legacy Investment Group’s, motion to dismiss thus dismissing Norris Lake’s petition and writ of certiorari as void. The order also dismissed Norris Lake’s alternate petition for writ of mandamus and found the second petition for a writ of mandamus was subject to dismissal as moot. Norris Lake brought its action in superior court in alternate counts of certiorari and mandamus. The superior court dismissed the appeal finding the statutory requirements for certiorari were not met and mandamus did not lie as there was an available remedy at law. In its application, Norris Lake seeks to appeal both the ruling as to its petition for certiorari and the mandamus ruling. However, the Supreme Court of Georgia has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); see *Settle v. McWhorter*, 203 Ga. 93 (1) (45 SE2d 210) (1947). This case is therefore TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 05 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, JANUARY 17, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0129

TERRY CAIN V. THE STATE

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

94011

03CR05784

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 17 2007**

*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. Matz

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 08 2007**

A07D0130. CHRISTOPHER JOHNSTON v. JENNIFER MYRICK.

Christopher Johnston filed this discretionary application from an order denying his action for contempt filed against his former wife for her purported failure to continue to pay the mortgage on a condominium titled solely in his name. A contempt proceeding based on the failure to comply with the terms of a property settlement incorporated into 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, Sec. VI, Par. III (6); *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); see *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); compare *Ashburn v. Baker*, 256 Ga. 507, 508 (1) (350 SE2d 437) (1986) (jurisdiction lies within Court of Appeals in contempt action involving child custody and no issues relating to divorce or alimony). Accordingly, this application is TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 08 2007

*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. Martin, Clerk.

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

ATLANTA, JANUARY 08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0131
CENTRAL STATE HOSPITAL, ET AL V. ARLENE HARRIS

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

99011

06CV40743

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 08 2007**

*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. L. Matz

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

ATLANTA, JANUARY 22, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0132
MER, INC. ET AL V. CAROL MUELLE

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

71011

02VS035038C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 22 2007

*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. Martinez

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

ATLANTA, JANUARY 17, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0133
RESOURCING SERVICES ATLANTA, LLC. V. GEORGIA DEPARTMENT
OF REVENUE 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

2006CV118881

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 17 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 11 2007**

A07D0134. JOHN BEASLEY v. JERRAL GORE.

John Beasley filed this application for discretionary appeal of the trial court's denial of his motion for reconsideration. On October 5, 2006, the trial court ordered summary judgment to Jerral Gore and issued a writ of possession. Beasley filed a direct appeal of that order, but this Court dismissed the appeal for failure to follow the discretionary appeal procedures. Beasley then sought reconsideration of the summary judgment order and writ of possession. The trial court denied the motion for reconsideration. Beasley now seeks to appeal the denial of the motion for reconsideration; however, a motion for reconsideration is not directly appealable and does not extend the time for filing a notice of appeal. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000); *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Therefore, since no appealable judgment was entered in the 30 days preceding the filing of Beasley's application for discretionary appeal, this Court lacks jurisdiction to consider this application, which is DISMISSED. See OCGA § 5-6-38 (a).

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

JAN 11 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, JANUARY 24, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0135

GABRIEL B. JONES V. DELTA AIRLINES, INC., ET AL

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

98012

2006CV123343

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 24 2007**

*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.

Willi L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 06, 2007

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 **S07C0759**

GABRIEL B. JONES v. DELTA AIRLINES, INC., et al.

Clerk, Supreme Court of Georgia

Case No. A07D0135

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Feb 07, 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, JANUARY 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0136

CHARLES DEVANE, D/B/A AUTO SOLUTIONS V. BEVERLY A. MOOREHEAD

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

90012

05CV2749

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 25 2007

*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 L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 26 2007

**A07D0137. ROBERT E. NEWMAN II v. FANNIN COUNTY JUDICIAL
CIRCUIT ET AL.**

Robert E. Newman II filed in Fannin Superior Court a motion to set aside the judgment of conviction entered on his guilty plea. The superior court found that Newman's motion was principally in the nature of a petition for habeas corpus. It therefore transferred the habeas claim to the Baldwin Superior Court, the county of Newman's incarceration. The superior court dismissed Newman's remaining claims. Newman then filed this application for discretionary appeal. We, however, lack jurisdiction.

An order transferring a case to another court "is not a final judgment as the case is still pending in the court below, albeit a different court from the one ordering the transfer." *Griffith v. Georgia Bd. of Dentistry*, 175 Ga. App. 533 (333 SE2d 647) (1985). Moreover, "[i]n a case involving multiple parties or multiple claims, a decision adjudicating fewer than all the claims or the rights and liabilities of less than all the parties is not a final judgment. In such circumstances, there must be an express determination under OCGA § 9-11-54 (b) or there must be compliance with the interlocutory appeal requirements of OCGA § 5-6-34 (b). Where neither of these code sections are followed, the appeal is premature and must be dismissed." (Citations and punctuation omitted.) *Johnson v. Hospital Corporation of America*, 192 Ga. App. 628, 629 (385 SE2d 731) (1989). As noted, although the superior court dismissed some of Newman's claims, it transferred what it considered to be Newman's habeas claim and that claim is pending.

Newman's compliance with the discretionary application statute does not

relieve him from complying with the interlocutory application statute. *Scruggs v. Dep't of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). As we lack jurisdiction, the instant application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 26 2007

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. Matz, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 17 2007

**A07D0138. DEBRA SLONE ET AL. v. A & E REAL ESTATE SALES AND
MANAGEMENT, INC.**

On December 22, 2006, Debra Slone and Sonja Ebron filed a pro se application for discretionary appeal from the trial court's November 28, 2006 award to William W. West of attorney's fees under OCGA § 9-15-14. Although an application for discretionary appeal may usually be filed within 30 days of the date of entry of the order sought to be appealed, it is the underlying subject matter of an appeal that controls over the relief sought in determining proper appellate procedure. See *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d192) (1994). The underlying subject matter of this application is a dispossessory proceeding.

OCGA § 44-7-56 specifies that "any judgment" in a dispossessory action is appealable only if "any such appeal shall be filed within seven days of the date such judgment was entered." Because the application was not filed within seven days of

the date of entry of the order sought to be appealed, the application is untimely. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522 (521 SE2d 456) (1999). This Court accordingly lacks jurisdiction to consider the application, which is ordered DISMISSED.

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

JAN 17 2007

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. McIntosh, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 09 2007

A07D0138. SLONE v. A & E REAL ESTATE SALES AND MANAGEMENT, INC.

Debra Slone and Sonja Ebron filed a motion for reconsideration of this Court's dismissal of their application as untimely. The application was dismissed for failure to comply with the seven day filing requirements applicable to dispossessory proceedings. OCGA § 44-7-56. However, because the issue of possession of the property was resolved prior to the filing of the application, the seven day filing requirement was no longer applicable. See *America Net, Inc. v. U.S. Cover, Inc.*, 243 Ga. App. 204, 205 (532 SE2d 756) (2000). Accordingly, the motion for reconsideration is granted and the application is reinstated.

It is also noted that Slone and Ebron have filed a direct appeal in a civil action involving the same parties, property and issues as involved in this application. Therefore, this application is GRANTED, Slone and Ebron shall have ten days from the date of this order to file their notice of appeal in the superior court. The clerk of the superior court is instructed to include a copy of this order in the record transmitted to this court. This case will then be consolidated with Court of Appeals case A07A1089.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 09 2007

*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. Mat..., Clerk.

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

ATLANTA, JANUARY 24, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0139
JEROME KLUBECK ET AL V. JOHN D. KIRKENDOLL, AS PRESIDENT
DIRECTOR, ET AL

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

97012

06SC0926

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 24 2007**

*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. Mat...

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 18 2007**

A07D0140. TAIKA LYNNE BLAIR v. TIMOTHY DEAN WILLIAMS.

Taika Lynne Blair filed this application for discretionary appeal seeking review of the trial court's order denying her motion for new trial and the award of attorney fees pursuant to OCGA § 9-15-14. The order Blair seeks to appeal was entered on November 27, 2006. Blair's application was docketed in this Court on December 29, 2006.¹

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Blair filed her application 32 days after entry of the order she seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED. Timothy Dean Williams' motion for frivolous appeal penalties is denied.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 18 2007**

*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 L. Martin, Clerk.

¹The Court first received Blair's application on December 27, 2006. The Court rejected the application for filing because Blair failed to include a copy of the order sought to be appealed in violation of Court of Appeals Rule 31 (d).

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

ATLANTA, JANUARY 29, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0141
JAMIE GRANT ISRAEL V. EMORY UNIVERSITY

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

94012

04A195054

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 29 2007

*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. Matz

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 20, 2007

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 **S07C0851**

JAMIE GRANT ISRAEL v. EMORY UNIVERSITY

Clerk, Supreme Court of Georgia

Case No. **A07D0141**

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 23 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, FEBRUARY 01, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0142

CONRAD FURMAN PARKER, II., ET AL V. WANDA FAYE PARKER

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

92012

01C06871S5

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 01 2007**

*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

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

ATLANTA, FEBRUARY 22, 2007

The Court of Appeals passed the following order

Case No. A07D0142

CONRAD FURMAN PARKER, II., ET AL V. WANDA FAYE PARKER

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 22, 2007*

*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. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: March 14, 2007

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 **S07C0949**

CONRAD FURMAN PARKER, II., et al. v. WANDA FAYE PARKER

Clerk, Supreme Court of Georgia

Case No. A07D0142

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent To S.L.
MAR 20 2007

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 12 2007**

A07D0143. REGINA M. DILLON v. ANN W. BERRY ET AL.

Regina M. Dillon filed an application for discretionary appeal of an order denying filing of a petition for writ of mandamus. The Supreme Court of Georgia has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); see *Settle v. McWhorter*, 203 Ga. 93 (1) (45 SE2d 210) (1947). This case is therefore TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 12 2007**

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, FEBRUARY 05, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0144

THE KROGER COMPANY ET AL V. SYLVESTER CLAY

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

71012

2006CV124074

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 05 2007

*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. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 23, 2007

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 **S07C0856**

KROGER COMPANY et al. v. SYLVESTER CLAY

Clerk, Supreme Court of Georgia

~~A0700144~~ - correct #.

Case No. A07D1044

wrong Application #.

Please make
a note and
change.

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

MAR 02 2007

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

ATLANTA, FEBRUARY 01, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0145
BRIAN LEE BROWN V. BRANDI C. BROWN

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

95013

2004V79604

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 01 2007

*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.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 26 2007**

A07D0146. TED E. DAVIS v. THE STATE

Ted E. Davis filed this application for discretionary appeal seeking review of his trial, conviction, and judgment entered on April 18, 2006. On November 3, 2006, the trial court denied Davis' motion for new trial and arrest of judgment and conviction.¹ This application was filed in the Supreme Court on December 6, 2006. The Supreme Court transferred the application to this Court by order dated January 5, 2007. However, an application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Davis filed his application 33 days after entry of the order contained in the application, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 26 2007**

*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.*

Willie L. McIntosh, Clerk.

¹Davis contends in his application that he also filed a motion for new trial based upon new evidence which was denied on November 7, 2006. However, the application does not include a copy of a November 7, 2006 order. Thus, this application must rise or fall based upon the November 3, 2006 order contained in the application.

Court of Appeals of the State of Georgia

ATLANTA,

FEB 02 2007

The Court of Appeals hereby passes the following order:

**A07D0147. OFFICE OF THE TAX COMMISSIONER OF DEKALB COUNTY
v. HARTFORD FIRE INSURANCE COMPANY OF THE SOUTHEAST.
A07D0148. OFFICE OF THE TAX COMMISSIONER OF DEKALB COUNTY
v. HARTFORD FIRE INSURANCE COMPANY OF THE SOUTHEAST.**

In A07D0147, the Office of the Tax Commissioner of DeKalb County (Commissioner) has filed a discretionary application seeking review of the state court's order denying its motion to vacate a default judgment against it in a garnishment action. In A07D0148, the Commissioner has filed a discretionary application seeking review of a separate order denying its motion to set aside a default judgment against it in the same garnishment action.

Hartford Fire and Insurance Company of the Southeast (Hartford) garnished the wages of Eleanor Sagoes, an employee of former DeKalb County Tax Commissioner Tom Scott. On October 11, 2004, Hartford's garnishment summons, naming the "Office of the Tax Commissioner of DeKalb County" as garnishee, was received by an administrative employee of DeKalb County – not of the Commissioner. The Commissioner contends that she was not an agent authorized to accept service on behalf of the County or of the Commissioner. The administrative employee gave the garnishment papers to a payroll technician with the DeKalb County Finance Department, who served an answer on counsel for Hartford in October 2004. The answer was mailed to – and received by – Hartford, but was not filed in the trial court until January 4, 2005. Hartford filed a traverse to this answer, along with a motion for default judgment based on the Commissioner's failure to file a timely answer to the garnishment. The state court entered default judgment against the Commissioner on January 13, 2005.

Upon learning of the default judgment, the Commissioner filed a motion to vacate the default judgment and dismiss the garnishment on January 25, 2005, alleging *inter alia* that Hartford had not effected proper and legal service of process, that Hartford had failed to traverse the allegedly defective answer within the relevant time frame, and that “the Office of the Tax Commissioner of DeKalb County” is not a legal entity capable of being sued in this action. On September 6, 2006, the trial court entered an order denying the motion to vacate the judgment, which found that “the Officer of Tax Commissioner was a proper party and service on [the administrative employee] was proper.” The style of the case in the order, however, improperly listed “DeKalb County,” rather than “the Office of the Tax Commissioner of DeKalb County,” as Garnishnee.

On December 8, 2006, the Commissioner filed another motion to vacate order and another motion to set aside the default judgment. A copy of this motion to set aside the default judgment is not included in the application materials. The motion to vacate order raises only the issue that “the Office of the Tax Commissioner of DeKalb County” is not a proper legal entity in this action. On December 8, 2006, the trial court denied the motion to vacate, again finding that “the Office of the Tax Commissioner of DeKalb County is a proper party and service on [the administrative employee] was appropriate. It followed the practice and pattern adopted implicitly by DeKalb County.” The order also reflected “the Office of the Tax Commissioner of DeKalb County” as the garnishee in the style of the case and stated that the “order correct[ed the] order of 9/6/06 which listed “DeKalb County” as the garnishee – nunc pro tunc.” That same day, the court issued another order denying the Commissioner’s motion to vacate. The Commissioner filed these two separate applications for appeal from these orders.

It is apparent from the application materials, including the trial court’s orders, that the two orders appealed from are in substance rulings on motions for reconsideration of the trial court’s September 6, 2006 order denying the motion to vacate the default judgment. The December 8, 2006, order correcting the name of the garnishnee in the style of the case merely corrects a scrivener’s error. The trial court

made no rulings in the December 8, 2006, orders that it had not made earlier in the September 6, 2006 order. The motions the trial court considered are thus motions for reconsideration.

Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within thirty days of entry of the appealable judgment, which in this case was the September 6, 2006 order denying the motion to vacate the default judgment. A motion for reconsideration does not extend the time for filing an application for discretionary appeal. See *Simmons v. State*, 228 Ga. App. 470 (491 SE2d 908) (1997). The time requirement in OCGA § 5-6-35 (d) is jurisdictional, and because the Commissioner failed to file timely applications for appeal, they are hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 02 2007

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.

Willie L. Martin

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

FEB 02 2007

The Court of Appeals hereby passes the following order:

**A07D0147. OFFICE OF THE TAX COMMISSIONER OF DEKALB COUNTY
v. HARTFORD FIRE INSURANCE COMPANY OF THE SOUTHEAST.
A07D0148. OFFICE OF THE TAX COMMISSIONER OF DEKALB COUNTY
v. HARTFORD FIRE INSURANCE COMPANY OF THE SOUTHEAST.**

In A07D0147, the Office of the Tax Commissioner of DeKalb County (Commissioner) has filed a discretionary application seeking review of the state court's order denying its motion to vacate a default judgment against it in a garnishment action. In A07D0148, the Commissioner has filed a discretionary application seeking review of a separate order denying its motion to set aside a default judgment against it in the same garnishment action.

Hartford Fire and Insurance Company of the Southeast (Hartford) garnished the wages of Eleanor Sagoes, an employee of former DeKalb County Tax Commissioner Tom Scott. On October 11, 2004, Hartford's garnishment summons, naming the "Office of the Tax Commissioner of DeKalb County" as garnishee, was received by an administrative employee of DeKalb County – not of the Commissioner. The Commissioner contends that she was not an agent authorized to accept service on behalf of the County or of the Commissioner. The administrative employee gave the garnishment papers to a payroll technician with the DeKalb County Finance Department, who served an answer on counsel for Hartford in October 2004. The answer was mailed to – and received by – Hartford, but was not filed in the trial court until January 4, 2005. Hartford filed a traverse to this answer, along with a motion for default judgment based on the Commissioner's failure to file a timely answer to the garnishment. The state court entered default judgment against the Commissioner on January 13, 2005.

Upon learning of the default judgment, the Commissioner filed a motion to vacate the default judgment and dismiss the garnishment on January 25, 2005, alleging *inter alia* that Hartford had not effected proper and legal service of process, that Hartford had failed to traverse the allegedly defective answer within the relevant time frame, and that “the Office of the Tax Commissioner of DeKalb County” is not a legal entity capable of being sued in this action. On September 6, 2006, the trial court entered an order denying the motion to vacate the judgment, which found that “the Officer of Tax Commissioner was a proper party and service on [the administrative employee] was proper.” The style of the case in the order, however, improperly listed “DeKalb County,” rather than “the Office of the Tax Commissioner of DeKalb County,” as Garnishnee.

On December 8, 2006, the Commissioner filed another motion to vacate order and another motion to set aside the default judgment. A copy of this motion to set aside the default judgment is not included in the application materials. The motion to vacate order raises only the issue that “the Office of the Tax Commissioner of DeKalb County” is not a proper legal entity in this action. On December 8, 2006, the trial court denied the motion to vacate, again finding that “the Office of the Tax Commissioner of DeKalb County is a proper party and service on [the administrative employee] was appropriate. It followed the practice and pattern adopted implicitly by DeKalb County.” The order also reflected “the Office of the Tax Commissioner of DeKalb County” as the garnishee in the style of the case and stated that the “order correct[ed the] order of 9/6/06 which listed “DeKalb County” as the garnishee – nunc pro tunc.” That same day, the court issued another order denying the Commissioner’s motion to vacate. The Commissioner filed these two separate applications for appeal from these orders.

It is apparent from the application materials, including the trial court’s orders, that the two orders appealed from are in substance rulings on motions for reconsideration of the trial court’s September 6, 2006 order denying the motion to vacate the default judgment. The December 8, 2006, order correcting the name of the garnishnee in the style of the case merely corrects a scrivener’s error. The trial court

made no rulings in the December 8, 2006, orders that it had not made earlier in the September 6, 2006 order. The motions the trial court considered are thus motions for reconsideration.

Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within thirty days of entry of the appealable judgment, which in this case was the September 6, 2006 order denying the motion to vacate the default judgment. A motion for reconsideration does not extend the time for filing an application for discretionary appeal. See *Simmons v. State*, 228 Ga. App. 470 (491 SE2d 908) (1997). The time requirement in OCGA § 5-6-35 (d) is jurisdictional, and because the Commissioner failed to file timely applications for appeal, they are hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 02 2007

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. Martin, Clerk.

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

ATLANTA, FEBRUARY 06, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0149

LUTHER H. ALLEN V. THE STATE

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

90013

79R135

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 06 2007

*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 L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 18 2007**

**A07D0150. TARA C. BARTELT ET AL. v. CONVERGENCE.COM
CORPORATION ET AL.**

The applicants have filed this application for discretionary appeal of a post-judgment order granting the respondents' motion to tax costs under OCGA §§ 9-11-54 (d) and 9-15-11. Because the order complained of is the final disposition of a post-judgment matter not enumerated under OCGA § 5-6-35 (a), the application is GRANTED as required under OCGA § 5-6-35 (j). The applicants 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 18 2007**

*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. Martinez, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 01 2007

A07D0151. CARTER v. FAYETTE COUNTY BOARD OF TAX ASSESSORS.

Anthony J. Carter filed a timely application for appeal from an order of the superior court dismissing a complaint in which Carter essentially contends that he was wrongfully denied a homestead exemption. Cases involving ad valorem taxes are expressly exempted from the scope of OCGA § 5-6-35 (a) (1), and it appears that no other provision of OCGA § 5-6-35 (a) is applicable here. Accordingly, Carter's application is hereby *granted* as required under OCGA § 5-6-35 (j). Carter shall have ten days from the date of this order to file his notice of appeal in the superior court. The clerk of 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*

FEB 01 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, FEBRUARY 02, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0152
ATLANTA INDEPENDENT SCHOOL SYSTEM V. GERALD NELSON

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

97013

2005CV104686

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

FEB 02 2007

*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

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: February 22, 2007

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 **S07C0852**

ATLANTA INDEPENDENT SCHOOL SYSTEM v. GERALD NELSON

Clerk, Supreme Court of Georgia

Case No. A07D0152

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 23 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, FEBRUARY 07, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0153
DELORES BROWN V. GREGORY GADSON

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

2006DR013825

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 07 2007

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JAN 30 2007

A07D0154. CAREN ANN AGATA v. DANIEL LOCKWOOD.

Caren Ann Agata seeks discretionary review of the trial court's order denying her motion for partial summary judgment. At issue is the meaning of a particular paragraph pertaining to the distribution of the proceeds from the sale of the marital home as set forth in a final judgment and decree of divorce. However, because the order sought to be appealed is an order interpreting a divorce decree and necessarily requires the construction and interpretation of the original divorce decree, this Court lacks jurisdiction to consider this appeal. See *Gates v. Gates*, 277 Ga. 175 (1) (587 SE2d 32) (2003). Appellate jurisdiction over divorce cases lies in the Supreme Court. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Therefore, this appeal is TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 30 2007

*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.*

Willie L. Martin

, Clerk.

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

ATLANTA, FEBRUARY 06, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0155

FREDERICK GARDINER V. HENRY COUNTY, GEORGIA ET AL

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

92013

04CV2395

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 06 2007

*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.

Willie L. Martin

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

ATLANTA, FEBRUARY 22, 2007

The Court of Appeals passed the following order

Case No. A07D0155

FREDERICK GARDINER V. HENRY COUNTY, GEORGIA ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 22, 2007*

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: March 13, 2007

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 **S07C0943**

FREDERICK GARDINER v. HENRY COUNTY GEORGIA et al.

Clerk, Supreme Court of Georgia

Case No. A07D0155

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent to S.C.
MAR 20 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 09 2007

A07D0156. ETHICON, INC. v. GEORGIA DEPARTMENT OF REVENUE.

Ethicon, Inc., seeks to appeal the disposition of an action filed in the superior court under OCGA § 48-2-35 for refund of certain sales and use tax previously paid. The Department of Revenue does not oppose the grant of this application, noting that the underlying issue is the same as the issue presented in a pending appeal, *Owens Corning v. Department of Revenue*, (Appeal No. A07A0424, docketed October 11, 2006). We need not reach the underlying merits of this application, however, since it appears that Ethicon's complaint challenged the mere failure of the Department to issue the refund requested. Decisions of the superior court reviewing decisions of the Department of Revenue are generally appealable only by application as required under OCGA § 5-6-35 (a) (1). But where, as here, no formal decision by the Department denying Ethicon's claim for a refund was issued prior to the filing of Ethicon's action in the superior court, there exists no "decision" within the meaning of OCGA § 5-6-35 (a) (1) for the superior court to review. Because we conclude that the discretionary appeal procedure does not apply here, Ethicon's application is *granted* as required under OCGA § 5-6-35 (j). Ethicon shall have ten days from the date of this order to file its notice of appeal. The clerk of 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 FEB 09 2007

*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.*

Willie L. Mat...

....., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 31 2007**

A07D0157. JULIUS JOHNSON v. THE STATE.

On January 18, 2007, Julius Johnson filed this application for discretionary appeal from an order entered on November 13, 2006, denying Johnson's extraordinary motion for new trial. To be timely, an application for discretionary appeal must be filed with the clerk of the appropriate appellate court within 30 days of the entry of the order, judgment or decision at issue. OCGA § 5-6-35 (d). Johnson's application was not filed until 66 days after the order sought to be appealed and is thus untimely. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). This Court lacks jurisdiction to consider an untimely application. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 31 2007**

*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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 09 2007

**A07D0158. MARTIN W. CROWE v. COLONIAL CREDIT CORPORATION,
ASSIGNEE OF CHASE MANHATTAN BANK ET AL.**

Martin W. Crowe filed this application for discretionary appeal from an order of the magistrate court denying his traverse to a garnishment action. The only avenue of appeal available from a magistrate court judgment, however, is by de novo appeal to the appropriate state or superior court. OCGA § 15-10-41 (b) (1); *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). This Court thus does not have jurisdiction to consider this application, which is accordingly DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 09 2007

*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. Martin

....., Clerk.

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

ATLANTA, FEBRUARY 19, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0159

KEVIN SHIER V. STACEY FLYNN

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

96014

06V404

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 19 2007

*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.

Willi L. Martin

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

ATLANTA, FEBRUARY 06, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0160
ALTON LEE GOINS, JR., 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.

90014
2003CR74

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 06 2007**

*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.
Willie L. Martin

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

ATLANTA, FEBRUARY 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0161
TYRANIUS SIMMONS ET AL V. SHAUNDA LESTER WILLIAMS

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

91014
200607724

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 21 2007**

*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.
Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 21 2007.**

A07D0162. EICHHOLZ v. CENTER.

Benjamin S. Eichholz and The Law Office of Benjamin Sheftall Eichholz (“Eichholz”) filed this application for discretionary appeal seeking review of the trial court’s denial of a motion to set aside. The underlying case in this matter was a medical malpractice action in which Eichholz and Tony Center represented the plaintiffs, Jizel Ross (a minor) and his parents Michelle Purvis and Harry Ross, Jr. After a jury trial in favor of plaintiffs, the parties mediated and reached a settlement agreement. The settlement agreement included an attorney fee award of \$898,000.

The superior court approved the settlement agreement; however, because a minor was involved, the distribution of the settlement agreement was sent to the probate court to appoint a guardian of the property of the minor and to review the proposed distribution of the settlement proceeds pursuant to OCGA § 29-2-16 (i). All parties appeared at the hearing and neither subject matter jurisdiction nor personal jurisdiction was contested. The probate court approved the settlement agreement and set forth a distribution of the settlement proceeds. That ruling found Center was entitled to 85 percent and Eichholz 15percent of the attorney fee award. The probate court ruling was entered on June 23, 2005. The superior court affirmed the distribution by order entered June 30, 2005.

On July 25, 2005, Eichholz filed a notice of appeal in the probate court which was never pursued and was voluntarily dismissed on October 27, 2006. On October 27, 2006, Eichholz filed a motion in superior court to set aside a portion of the probate and superior courts’ orders pursuant to OCGA § 9-11-60 contending the superior court and probate court lacked subject matter jurisdiction to determine the distribution between Eichholz and Center of the attorney fee award. Eichholz never filed a notice of appeal as to the superior court’s June 30, 2005 order. The superior court denied the

motion to set aside on January 4, 2007, and Eichholz seeks discretionary review of that order.

However, a motion to set aside a judgment under OCGA § 9-11- 60 (d) is not designed to challenge a court's legal reasoning. On the contrary, such a motion attacks a judgment on grounds that are extraneous to the merits of the case. See generally *Herringdine v. Nalley Equip. Leasing*, 238 Ga. App. 210, 216-217 (517 SE2d 571) (1999). The superior court and the probate court had subject matter jurisdiction to consider the settlement distribution in the malpractice case. See OCGA § 29-2-16 (i); *Rowen v. Estate of Hughley*, 272 Ga. App. 55 (611 SE2d 735) (2005). Eichholz contends that the superior court and probate court exceeded their authority in determining the distribution of the attorney fee award between the plaintiffs' attorneys. However, that is not a jurisdictional issue, but a collateral issue attacking a settlement finalized on June 30, 2005. See *Head v. Wachovia Bank, N.A.*, 264 Ga. App 608, 611 (591 SE2d 424) (2003).

Upon review of the facts of this case, we conclude that the only appealable order is the superior court's order entered on June 30, 2005. Eichholz's post-judgment "motion to set aside" is actually a motion for reconsideration. Accord *Bell v. Cohran*, 244 Ga. App. 510 (536 SE2d 187) (2000). The denial of a motion for reconsideration of an otherwise appealable order is not appealable in its own right. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Nor does the filing of such a motion extend the time for filing an appeal from a final order. *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). The final order, which was not timely appealed, is res judicata as to all issues of substance that Eichholz wishes to raise in this appeal. Accord *Halkirk Companies Corp. v. Dirt Busters, Inc.*, 190 Ga. App. 460, 461 (1) (379 SE2d 173) (1989). For the foregoing reasons, this appeal is hereby *dismissed* for lack of jurisdiction.

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

FEB 21 2007

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. Mat...

, Clerk.

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

ATLANTA, MARCH 19, 2007

The Court of Appeals passed the following order

Case No. A07D0162

BENJAMIN S. EICHHOLZ ET AL V. TONY CENTER

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 19, 2007*

*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. Mat... [Signature]

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: April 05, 2007

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 **S07C1095**

BENJAMIN S. EICHHOLZ et al. v. TONY CENTER

Clerk, Supreme Court of Georgia

Case No. A07D0162

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

APR 11 2007

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 14 2007

A07D0163. JEFFREY JACKSON v. RENT-A-CENTER, INC. et al.

Jeffrey Jackson has filed this discretionary application seeking to appeal the superior court's order vacating an order of the State Board of Workers' Compensation Appellate Division, in which the state board vacated its original order approving a settlement agreement of the parties. Pretermitted the issue of whether the state board's order vacating the approval of the settlement agreement was a final order appealable to the superior court, OCGA § 34-9-105 (b); see *Cartwright v. Midtown Hospital*, 243 Ga. App. 828 (534 SE2d 504) (2000), we nonetheless lack jurisdiction.

In its order vacating the state board's order, the superior court expressly states that it will consider Jackson's motion to set aside at a later date. Because the case remains pending in the superior court, the application seeks appeal of an interlocutory ruling. However, "[n]owhere in our [Workers' Compensation] statute is there provision for an interlocutory appeal." *Garner v. Owens-Illinois Glass*, 134 Ga. App. 917, 920 (216 SE2d 709) (1975). We lack jurisdiction over this application which is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 14 2007

*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. Martin

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, February 22, 2007

The Court of Appeals hereby passes the following order:

A07D0164. BOBBY PARADISE v. THE STATE.

Bobby Paradise filed this pro se application for discretionary appeal from an order denying his "Motion to Vacate Void Sentence." Paradise, however, has already challenged his conviction by direct appeal, and the judgment of conviction was affirmed in *Paradise v. State*, 212 Ga. App. 166 (441 SE2d 497) (1994). This Court's affirmance is res judicata. See *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991).

Even though a void sentence may be attacked at any time, a sentence is void only when the trial court imposes a punishment that the law does not allow. *Jordan v. State*, 253 Ga. App. 510, 511 (1) (559 SE2d 528) (2002). The sentence imposed here does not fall outside the statutory range of permissible punishment. Although Paradise styled his motion as "to vacate a void sentence," the substance of the motion is, inter alia, an attack on the trial court's personal and subject matter jurisdiction, a claim to a purported violation of separation of powers, and a challenge to the sufficiency of the evidence. Because Paradise does not raise any issue that could not have been raised in his first appeal and because he does not raise any issue to suggest that the sentence is a legal nullity, this application is DISMISSED for lack of jurisdiction. See *Wright v. State*, 277 Ga. 810 (596 SE2d 587) (2004).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 22 2007

*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. Martinez

, Clerk.

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

ATLANTA, APRIL 11, 2007

The Court of Appeals passed the following order

Case No. A07D0164

BOBBY PARADISE V. THE STATE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 11, 2007*

*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.

Willie L. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: April 17, 2007

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 **S07C1171**

BOBBY PARADISE v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0164

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 19 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 08 2007

A07D0165. JAMES HAROLD BROWN v. THE STATE.

James Harold Brown, a prison inmate proceeding pro se, filed this application for discretionary appeal from a December 11, 2006 order denying his motion to vacate sentence. Brown's application was docketed in this Court January 29, 2007.¹

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Brown filed his application 49 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 08 2007**

*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. Matz, Clerk.

¹Brown's original submission was not accepted for filing because it lacked a filing fee or sufficient pauper's affidavit in violation of OCGA § 5-6-4 and Court of Appeals Rule 31 (c); a stamped "filed" copy of the trial court's order in violation of Court of Appeals Rule 31 (d); and a certificate of service in violation of Court of Appeals Rule 1 (a).

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

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 21 2007**

A07D0166. FORSYTH COUNTY, GEORGIA, et al. v. HANSARD, et al.

Defendant Forsyth County seeks an appeal from an order of the superior court granting the plaintiffs' petition for a writ of mandamus in a case involving a zoning variance. Because the Supreme Court has appellate jurisdiction in cases involving extraordinary remedies, this appeal is hereby *transferred* to the Supreme Court. 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 **FEB 21 2007**

*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.*

Willie L. Martin , Clerk.

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

ATLANTA, FEBRUARY 19, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0167
JEFFREY MCDONALD V. THE STATE

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

99014

96CR1323

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 19 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 05 2007

A07D0168. DR. PAUL H. LEITSCHUH et al. v. RUTH KICKLIGHTER.

On February 2, 2007, Dr. Paul H. Leitschuh and Emma Leitschuh filed this application for discretionary appeal from an order denying their motion for reconsideration of an order that granted summary judgment to Ruth Kicklighter. The trial court awarded summary judgment to Kicklighter on October 18, 2006. In its order, the trial court directed the clerk to enter a final judgment in favor of Kicklighter.

An order granting a motion for summary judgment is directly appealable and does not require a discretionary application. OCGA § 9-11-56 (h); *Culwell v. Lomas & Nettleton Co.*, 242 Ga. 242, 243 (248 SE2d 641) (1978). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. However, an application for discretionary appeal must be filed within 30 days of the entry of the order sought to be appealed.

The denial of a motion for reconsideration is not directly appealable and the filing of such a motion does not extend the time for filing a direct appeal. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000); *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).

“The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction upon the appellate court.” *State v. Thompson*, 152 Ga. App. 5 (262 SE2d 214) (1979). Filing a motion for reconsideration does not extend the 30 day time period. See *Morton v. Morton*, 163 Ga. App. 830 (296 SE2d 362) (1982). Thus, the Leitschuhs had 30 days from October 18, 2006 within which to file a notice of appeal or an application for discretionary review. Their failure to do so deprives

this Court of jurisdiction and their application must be DISMISSED as untimely.

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

MAR 05 2007

*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. Martin , Clerk.

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

ATLANTA, FEBRUARY 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0169

JEROME KLUBECK ET AL V. JOHN D. KIRKENDOLL

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

95015

2005CV96611

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 21 2007

*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. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 16 2007**

A07D0170. STEPHANIE JAN KOWSKI v. JULIAN LECRAW ET AL.

Stephanie Jan Kowski, *pro se*, challenges a January 31, 2007 Order issued from the Magistrate Court of Fulton County in which the judge¹ denied Kowski's request to pay rent into the Court's registry "pending her appeal." There is no record evidence showing that Kowski appealed this January 31st Order, or any other judgment/order, to the relevant state or superior court. Accordingly, Kowski's attempt to appeal a magistrate order as a matter of first recourse in this Court is unauthorized. Specifically, OCGA § 15-10-41 (b) (1) provides that appeals from judgments in the magistrate court be made to the state or the superior court of the relevant county. *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) ("The only avenue of appeal available from the magistrate court judgment is provided by OCGA § 15-10-41(b)(1), which allows for a de novo appeal to the state or superior court."). Therefore, this Court lacks jurisdiction to consider this application and it is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 16 2007**

*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.*

Willie L. Mat... , Clerk

¹Although the Order is signed by Judge Gail S. Tuson, the docket number on the Order confirms that the case is pending in the Fulton County Magistrate Court.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 16 2007

A07D0170. STEPHANIE JANKOWSKI v. JULIAN LECRAW ET AL.

Stephanie Jankowski, *pro se*, challenges a January 31, 2007, order issued from the Magistrate Court of Fulton County in which the judge denied Jankowski's request to pay rent into the Court's registry "pending her appeal." The record provided by the parties reveals that the magistrate court originally issued a judgment and writ of possession against Jankowski on January 4, 2007. Pursuant to OCGA § 44-7-56, Jankowski had 7 days to appeal the judgment to the appropriate state or superior court; however, Jankowski did not submit her notice of appeal until 18 days later on January 29, 2007. Jankowski's untimeliness divested the superior court of jurisdiction over the matter and, consequently, the appeal was dismissed January 30, 2007. Because of Jankowski's failure to timely appeal the original January 4 judgment to the superior court, this Court lacks jurisdiction over this matter. Accordingly, Jankowski's appeal is DISMISSED. Furthermore, Jankowski's February 13, 2007, "Motion/Application for Emergency Order" is hereby DENIED as MOOT.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 16 2007**

*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. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 21 2007**

A07D0170. STEPHANIE JANKOWSKI v. JULIAN LECRAW, ET AL.

The Court's order of February 16, 2007 is hereby withdrawn due to clerical error and the attached order is hereby substituted therefore.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 21 2007**

*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. Martin

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

ATLANTA, MARCH 06, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0171

JOHNNY R. EATON V. ANECO ELECTRICAL CONSTRUCTION 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.

98015

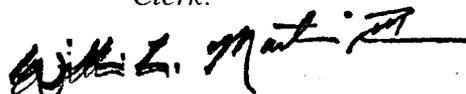
2006CV126691

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 06 2007**

*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, MARCH 05, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0172
RUSSELL LAMAR WILSON V. THE STATE

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

90015

05CR29523R

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 05 2007**

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 06 2007**

A07D0173. ANTHONY MICHAEL ESHENA v. THE STATE.

Nearly 15 years ago, this Court affirmed the armed robbery conviction of Anthony Michael Eshena. See *Eshena v. State*, 203 Ga. App. 621 (417 SE2d 214) (1992). In August 2000, Eshena filed a "Petition to Correct Void Sentence." The trial court denied Eshena's petition. In *Eshena v. State*, 251 Ga. App. 795 (554 SE2d 814) (2001), this Court affirmed the denial of the petition

On November 6, 2006, Eshena filed an extraordinary motion for new trial. The trial court denied the motion on December 6, 2006. Eshena filed an application for discretionary appeal on February 7, 2007, 63 days after the denial of the motion.

An appeal from an order denying an extraordinary motion for new trial, when separate from an original appeal, must be made by application filed within 30 days of the entry of the order denying the motion. OCGA §§ 5-6-35 (a) (7); 5-6-35 (d). Eshena failed to file his application within 30 days of December 6, 2006. This Court lacks jurisdiction to consider an untimely application. See *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000). Therefore, Eshena's application is ordered DISMISSED.

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

MAR 06 2007
*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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 21 2007**

A07D0174. VELMA McCRAY et al. v. SHARON POUNDS.

Velma McCray and her counsel, Leon Van Gelderen, P.C., seek to appeal the denial of their motion for reconsideration of the award of OCGA § 9-15-14 attorney fees to Sharon Pounds. As the applicants observe in their application, the case remains pending below.

Generally, a party must follow the discretionary appeal procedures to appeal the award of OCGA § 9-15-14 attorney's fees. OCGA § 5-6-35 (a) (10). Because the case remains pending in the trial court, however, no final judgment has been entered, and the applicants were thus required to follow the interlocutory appeal procedures. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dep. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). The failure to follow the interlocutory appeal procedures deprives this Court of jurisdiction to consider this application, which is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 21 2007**

*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. Mat... Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 15 2007**

**A07D0175. DOUGLAS T. STICKELLS v. GWINNETT COUNTY POLICE
DEPT., ET AL.**

Douglas T. Stickells, *pro se*, appeals a January 9, 2007, Order of the superior court, dismissing with prejudice his civil action against the Gwinnett County Police Department. An application for discretionary appeal must be submitted within 30 days of the date the relevant order is entered. OCGA § 5-6-35 (d). Stickells's application for discretionary appeal was docketed in this Court on February 9, 2007, a date more than 30 days after the January 9 Order of which he complains. Accordingly, Stickells's application is untimely. Because this Court lacks jurisdiction to consider untimely applications, the instant application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 15 2007**

*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 L. Martinez

, Clerk.

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

ATLANTA, FEBRUARY 27, 2007

The Court of Appeals passed the following order

Case No. A07D0175

DOUGLAS T. STICKELS V. GWINNETT COUNTY POLICE DEPT, ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 27, 2007*

*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. Matia

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: March 15, 2007

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 **S07C0967**

DOUGLAS T. STICKELLS v. GWINNETT COUNTY POLICE DEPT., et al.

Clerk, Supreme Court of Georgia

Case No. **A07D0175**

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent to S.C.
MAR 20 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, MARCH 07, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0176

TIMOTHY O. CLARK 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 STATE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93015

05C671955

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 07 2007

*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.

Willie L. Martin

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

ATLANTA, MARCH 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0177

ADAM SMITH V. THE STATE

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

94015

9900656

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 09 2007

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 16 2007

**A07D0178. JERRY WILLIAMS v. STANLEY THOMAS, COMMISSIONER,
MADISON COUNTY BOARD OF COMMISSIONERS.**

Jerry Williams has filed this application for discretionary appeal from an order of the superior court awarding attorney fees against him as a result of his unsuccessful recall election effort. As recall chairman, Williams filed an application for a recall petition seeking to force Stanley Thomas, a member of the Madison County Board of Commissioners, to face the voters. Thomas then filed a petition for review as to the grounds for recall. Under OCGA § 21-4-6 (f), the superior court reviewed the legal sufficiency of the petition and considered the alleged factual basis for the petition. The superior court concluded the petition was not legally sufficient and directed the recall proceedings to cease. Thereafter, Thomas sought and obtained an attorney fee award under OCGA § 9-15-14 against Williams.

Williams seeks discretionary review only as to the issue of attorney fees. However, the award of attorney fees is ancillary to the superior court's ruling on the sufficiency of the recall petition, a matter over which the legislature has given exclusive purview to the Supreme Court under OCGA § 21-4-6 (g) of the Recall Act of 1989. See *DeLong v. Welch*, 272 Ga. 730 (533 SE2d 724) (2000); *Phillips v. Hawthorne*, 269 Ga. 9 (494 SE2d 656) (1998); *Davis v. Shavers*, 263 Ga. 785 (439 SE2d 650) (1994); *Hamlett v. Hubbard*, 262 Ga. 279 (416 SE2d 732) (1992).

Since it is not possible to determine the appropriateness of sanctions without considering the legal and factual sufficiency of the recall petition, the issue of attorney fees is intertwined with and ancillary to the legal and factual basis for the petition. As such, the matter either implicitly lies within the Supreme Court's appellate jurisdiction

under the Recall Act of 1989 or explicitly falls within the exclusive appellate jurisdiction of the Supreme Court under Ga. Const. 1983, Art. VI, Sec. VI, Par. II (2) as part of an election contest case. Accordingly, the appeal is TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 16 2007

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. Martin

, Clerk.

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

ATLANTA, MARCH 05, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0179
DANIEL JAMES WALKER 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.

99015

01CR1396

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 05 2007**

*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

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

ATLANTA, MARCH 07, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0180
THE BARROW GROUP, LLC V. GABRIEL LOPEZ

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

71015

05A115377

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 07 2007**

*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.

Willie L. Martinez

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

ATLANTA, MARCH 14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0181
GEORGIA DEPARTMENT OF TRANSPORTATION V. SOUTHERN
GRAPHICS 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.

95016

06FV621T

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 14 2007**

*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

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

ATLANTA, MARCH 14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0182
TAYLOR A. HAYS V. LORIE MCBRYAR ON BEHALF OF BRITTNEY
MCBRYAR

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

96016

06CV13477

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 14 2007

*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.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 12 2007**

A07D0183. EDWARD A. WEILER v. CITY OF ATLANTA.

Edward A. Weiler filed an application for discretionary appeal on February 20, 2007, 124 days after the entry of the state court's order on October 19, 2006. OCGA § 5-6-35 (d) requires that an application for discretionary appeal must be filed within 30 days of the order, judgment, or decision sought to be appealed. The filing of a motion for reconsideration does not extend this deadline. See *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). Because Weiler filed his application in this court more than 30 days after the entry of the order that he seeks to appeal, his application is untimely. Regardless of the cause of the untimeliness, this court is without jurisdiction to consider an untimely appeal or an untimely application for appeal. See *Atlantic-Canadian Corp. v. Hammer, Siler, George Assoc., Inc.*, 167 Ga. App. 257-258 (1) (306 SE2d 22) (1983). Therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 12 2007**

*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. Martin, Clerk.

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

ATLANTA, MARCH 14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0184

ELIZABETH M. JOHNSON V. GEORGIA REAL ESTATE COMMISSION

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

90016

2006CV124196

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 14 2007**

*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.

Willie L. Martin

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

ATLANTA, MARCH 08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0185

GEORGE W. CARMICHAEL V. PETER CARDIFF ET AL

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

91016

06GR030034B

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 08 2007**

*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 L. Martin

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

ATLANTA, MARCH 08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0186

GEORGE W. CARMICHAEL V. PETER CARDIFF ET AL

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

91017

06GR030034B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 08 2007

*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. Mat... [Signature]

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

ATLANTA, MARCH 19, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0187
MONICA B. DANIELS V. NESBERT BARNES 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.

70016

DR061257

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 19 2007**

*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. McIntire

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

ATLANTA, MARCH 19, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0188
VINCENTO O. CHIKA V. FLORENCE CHIKA

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

97016

07CV10775

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 19 2007**

*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

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

ATLANTA, MARCH 14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0189
MARY EUGENIA GATES V. SIDNEY AUSTIN GATES, JR

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

93016

38966

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 14 2007**

*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. Mat... [Signature]

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

ATLANTA, MARCH 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0190
TC DRYWALL & PLASTER, INC., V. EXPRESS RENTALS, INC D/B/A
RECHECK AS ASSIGNEE OF REY COLIMAN CONTRACTORS, 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 STATE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94016

06C40401

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 09 2007

*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

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

ATLANTA, MARCH 16, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0191
IN THE INTEREST OF A.H. & S.H., CHILDREN

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

92016

06CV200005

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 16 2007**

*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. Matia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 22 2007

A07D0192. LUNA v. LEWIS.

Respondent Lesean Lewis initially filed the above styled tort action against applicant Emilio Aguda Luna in the magistrate court. Luna filed a motion to dismiss the action based on lack of personal jurisdiction. The magistrate court denied the motion. Before adjudicating any of the plaintiff's claims, the magistrate court transferred the plaintiff's action to state court to enable discovery. Luna renewed his motion to dismiss in the state court. The court denied the renewed motion on the ground that such a motion is barred under the doctrine of res judicata. But see *Hubbard v. Department of Transportation*, 256 Ga. App. 342, 344 (1) (568 SE2d 559) (2002) (res judicata has no application prior to the entry of a judgment). Luna filed an application for discretionary appeal from this order. Because the plaintiff's action remains pending in the state court and because Luna did not follow the additional requirements of the interlocutory appeal procedure as required, his application for appeal is hereby *dismissed* without prejudice as premature. OCGA § 5-6-34 (b); *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (1) (408 SE2d 103) (1991).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 22 2007**

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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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 05 2007.**

A07D0193. EDWARD A. WEILER v. HOME DEPOT ET AL.

Edward A. Weiler filed an application from a final judgment of dismissal and requiring him to pay reasonable expenses and attorney fees in the amount of \$1,500 entered in an action for damages. Because the exhibits included in the application reveal no circumstance indicating that Weiler was required to follow the discretionary appeal procedure, his application is GRANTED as required under OCGA § 5-6-35 (j). Weiler shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court clerk 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*

MAR 05 2007
*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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: MAR 08 2007

A07D0194. SIM JAMES POPE, JR. v. THE STATE.

On February 27 2007, Sim James Pope, Jr. filed this application for discretionary appeal of his October 21, 2005 probation revocation. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Pope filed his application 494 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 08 2007

*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.*

Willie L. Martinez, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 22 2007

A07D0195. SUBODHCHANDRA T. PATEL v. JAMES DONALD et al.

Subodhchandra T. Patel, presently an inmate at Rivers State Prison, filed a civil suit against James Donald, Commissioner of the Department of Corrections, and Ralph E. Kemp, Warden, Wheeler Correctional Facility. On June 20, 2005, the trial court entered an order that dismissed Patel's complaint as moot because Patel was no longer incarcerated at Wheeler. After Patel filed a notice of appeal on July 18, 2005, the trial court directed Patel "to identify the transcript to which he referred in his notice of appeal or to file an amended notice of appeal omitting his request for the transcript." When Patel failed to comply with the order, the trial court entered an order on January 24, 2007, dismissing Patel's notice of appeal. Patel then filed an application for discretionary review on February 28, 2007, 35 days after the dismissal of his notice of appeal.

Because Patel is currently in the custody of the Department of Corrections, this appeal is controlled by the Prison Litigation Reform Act of 1996. OCGA § 42-12-1 et seq. OCGA § 42-12-8 requires that an appeal of a civil non-habeas action filed by a prisoner "shall be as provided in Code Section 5-6-35." Under OCGA § 5-6-35, the party wishing to appeal must file a timely application to the appropriate appellate court. Thus, "in appeals of civil cases filed by prisoners, there is no right of direct appeal." *Jones v. Townsend*, 267 Ga. 489, 490 (480 SE2d 24) (1997).

Patel's failure to file a timely application for discretionary appeal within 30 days

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

ATLANTA, APRIL 12, 2007

The Court of Appeals passed the following order

Case No. A07D0195

SUBODHCHANDRA T. PATEL V. JAMES E. DONALD, COMMISSIONER OF THE
GEORGIA DEPARTMENT OF CORRECTIONS

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 12, 2007*

*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. Matz

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 14, 2007

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 **S07C1313**

SUBODHCHANDRA T. PATEL v. JAMES E. DONALD et al.

Clerk, Supreme Court of Georgia

Case No. A07D0195

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 17 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, APRIL 05, 2007

The Court of Appeals passed the following order

Case No. A07D0196

LANCE WITHERSPOON GOWENS V. VINI CHARLOT GOWENS

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 05, 2007*

*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. Martin

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

ATLANTA, APRIL 05, 2007

The Court of Appeals passed the following order

Case No. A07D0196

LANCE WITHERSPOON GOWENS V. VINI CHARLOT GOWENS

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 05, 2007*

*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.

Willi L. Martin

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

ATLANTA, MARCH 29, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0197
EVELYN REID V. CLARK ATLANTA UNIVERSITY, INC

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

90017

04A276626

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 29 2007**

*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.

Willi L. Martinez

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

ATLANTA, MARCH 19, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0198
NICOLE CORLISA MORRIS V. THE STATE

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

70017

2006R004

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

MAR 19 2007

*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.

Willie L. Martin

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

ATLANTA, MARCH 28, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0199
SANDY SPRINGS BROADCASTING, LLC., V. FULTON COUNTY, GEORGIA,
ET AL

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

97017

2005CV100724

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 28 2007**

*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.

Willie L. Martinez

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

ATLANTA, MARCH 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0200

DOE TAE KIM A/K/A ANDREW KIM V. JORGE FALAGIAN ET AL

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

93017

05CV68264

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

MAR 21 2007

*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

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

ATLANTA, APRIL 11, 2007

The Court of Appeals passed the following order

Case No. A07D0200

DOE TAE KIM A/K/A ANDREW KIM V. JORGE FALAGIAN ET AL

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 11, 2007*

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: April 27, 2007

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 **S07C1225**

DOE TAE KIM A/K/A ANDREW KIM v. JORGE FALAGIAN et al.

Clerk, Supreme Court of Georgia

Case No. A07D0200

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 07 2007 Sent to S.C.

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 16 2007**

A07D0201. TROY LEE CARTER v. THE STATE.

Troy Lee Carter seeks discretionary review of the trial court's denial of his "motion to correct void sentence," concerning his 1997 conviction for rape. Carter's original conviction was affirmed by this Court approximately nine years ago in *Carter v. State*, 235 Ga. App. 260 (510 SE2d 539) (1998). This Court's 1998 decision affirming Carter's conviction is *res judicata*. See *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991).

Although a void sentence may be attacked at any time, a sentence is void only when the trial court imposes a punishment that the law does not allow. *Jordan v. State*, 253 Ga. App. 510, 511 (559 SE2d 528) (2002). The 20-year prison sentence imposed here does not fall outside the statutory range of permissible punishment. OCGA § 16-6-1 (b). Because Carter does not raise any issue that could not have been raised in his direct appeal and because he does not raise any issue to suggest that the sentence is a legal nullity, this application is DISMISSED for lack of jurisdiction. See *Wright v. State*, 277 Ga. 810 (596 SE2d 587) (2004).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 16 2007**

*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.*

Willie L. Martin, Clerk.

cCourt of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 30 2007**

A07D0202. GOINES v. THE STATE.

In May 2006 Anthony Goines pled guilty to possession of marijuana with intent to distribute, theft by receiving stolen property and two counts of possession of a firearm by a convicted felon. Goines was sentenced to 20 years total, ten to serve in prison. Goines was also ordered to pay certain fines and fees. Additionally, as a part of the probationary portion of Goines's sentence he has been banished from Houston County and contiguous counties. On December 18, 2006, the superior court denied Goines's "Motion to Modify and Hardship Status," noting that Goines had signed a "Waiver of Post-Conviction Rights" at the time he entered his negotiated guilty plea. On February 12, 2007, Goines filed what was apparently treated by the superior court as a second motion to modify sentence. The court denied that motion on February 20, 2007. On March 5, 2007, Goines filed the above styled application for appeal to this court.

We may safely assume, without deciding, that the superior court's order of December 18, 2006, was appealable. The subsequent order of February 20 denying the same relief denied in the December 18 order, however, is in substance the denial of a mere motion for reconsideration. Such an order is not appealable in its own right, nor does it extend the time for appealing the order entered on December 18. See *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991); *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000); *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Because Goines's application is not timely filed from an appealable order, it is hereby *dismissed* for lack of jurisdiction.

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

MAR 30 2007

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, MARCH 23, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0203
ETHEL ROSSER V. DEVORA JERKINS ET AL

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

99017

04CV91265

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

MAR 23 2007

*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

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

ATLANTA, APRIL 02, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0204
GEORGIA REAL ESTATE APPRAISERS BOARD V. LOIS JUANITA
CRAFT

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

71017

2005CV110026

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 02 2007**

*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 above written.*

Clerk.

Willie L. Martin

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

ATLANTA, MARCH 23, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0205
VICTORIA R. COTHRAN V. STANLEY J. MEHOSKY

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.

95018

SU05DM3823

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

MAR 23 2007

*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.

Willie L. Martin

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

ATLANTA, MARCH 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0206
ADRRENNNA GILCHRIST V. DEJUAN GILCHRIST

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

96018

07G03868

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 21 2007**

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 20 2007**

A07D0206. ADDRENNA GILCHRIST V. DEJUAN GILCHRIST

The attached order is substituted for the Court's earlier order of March 21, 2007 which was incorrect due to clerical error. The clerical error corrected was the omission of the lower court case number of the second case. That has been added to the corrected order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 20 2007**

*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.

Willie L. Mat... [Signature]

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

ATLANTA, MARCH 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0206
ADRRENNNA GILCHRIST V. DEJUAN GILCHRIST

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

96018

07G03868 07G03869

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 21 2007

*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.

Willie L. Mat...

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

APR 02 2007

**A07D0207. JAQUELINE E. JACKSON v. ANDRE "DRE 3000" BENJAMIN
ET AL.**

Jaqueline E. Jackson, pro se, filed the instant discretionary application seeking to appeal a December 19, 2006, order of the State Court of Fulton County, granting respondents' motion for judgment on the pleadings. An application for discretionary appeal must be submitted within 30 days of the date the relevant order is entered. OCGA § 5-6-35 (d). Jackson's application for discretionary appeal was docketed in this Court on March 14, 2007, a date 85 days after the December 19 order of which she complains. Accordingly, Jackson's application is untimely. Insofar as an order granting a motion for judgment on the pleadings is directly appealable, any direct appeal filed by Jackson would also be untimely pursuant to OCGA § 5-6-38(a). Because this Court lacks jurisdiction to consider untimely discretionary applications and untimely direct appeals, the instant application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 02 2007

*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.*

Willie L. Mat... , Clerk.

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

ATLANTA, APRIL 16, 2007

The Court of Appeals passed the following order

Case No. A07D0207

JACQUELINE E. JACKSON V. ANDRE " DRE 3000 " BENJAMIN ET AL

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 16, 2007*

*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. Mat... [Signature]

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 07, 2007

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 **S07C1289**

JACQUELINE E. JACKSON v. ANDRE "DRE 3000" BENJAMIN et al.

Clerk, Supreme Court of Georgia

Case No. A07D0207

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 11 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

APR 02 2007

A07D0208. REED v. THE STATE.

James Reed seeks an appeal from an order entered on February 9, 2007, dismissing his "Motion to Set Aside the Verdict and Vacate the Judgment and Motion in Arrest of Judgment." Reed's 1998 conviction for burglary and other crimes was affirmed by this court by unpublished opinion. *Reed v. State*, 236 Ga. App. XXVII (Appeal No. A99A0222, decided April 1, 1999). On November 18, 2005, this court dismissed Reed's Appeal No. A06A0268 due to Reed's failure to file a brief and enumeration of errors. The order complained of in that appeal was an order of the superior court effectively rejecting Reed's challenge to the legality of his sentence. In his current application for appeal Reed again seeks to appeal an order denying a challenge to the legality of his conviction and sentence. Because Reed can offer no claim of error in his application that has not already been disposed of or otherwise waived by him in prior appellate proceedings, Reed's application for discretionary appeal is hereby *dismissed* for lack of jurisdiction. *Jordan v. State*, 253 Ga. App. 510 (559 SE2d 528) (2002); see also *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

APR 02 2007

*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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAR 19 2007

The Court of Appeals hereby passes the following order:

**A07D0209. JOHN CONTI ET AL. v. KRISTEN LAKE HOMEOWNER'S
ASSOCIATION, INC. ET AL.**

John and Kim Conti seek discretionary review of the trial court's order denying their motion to set aside or amend the order granting attorney fees to defendant Autumn Kitts-Sines. The order granting attorney fees was entered on November 29, 2006. On December 29, 2006, the Contis filed a motion to set aside or amend the order, which the trial court denied on February 7, 2007. The Contis' motion was not an OCGA § 9-11-60 (d) motion to set aside, but rather a "discretionary" motion to set aside which calls upon the court to exercise its inherent power to amend or modify an order within the breast of the court. The denial of such a motion is not appealable in its own right. See *Bell v. Cochran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). None of the arguments posed by the Contis in their motion fall within the purview of a motion to set aside. Thus, the Contis were required to file an application for discretionary appeal within 30 days after entry of the December 29, 2006 order. OCGA § 5-6-35 (a) (10); *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991). This application was not filed until March 9, 2006 and is therefore untimely. Accordingly, this court lacks jurisdiction to consider this application and it is ordered DISMISSED.

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

MAR 19 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA,

MAR 23 2007

The Court of Appeals hereby passes the following order:

**A07D0209. JOHN CONTI ET AL. v. KRISTEN LAKE HOMEOWNERS
ASSOCIATION, INC. ET AL.**

This discretionary application was DISMISSED by this Court on March 19,
2007. The appllant's request for dismissal is moot.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 23 2007

*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. Matz, Clerk.

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

ATLANTA, MARCH 29, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0210
CHRISTOPHER R. SEBBY V. PAMELA J. COSTO

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.

70018

DR061536

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 29 2007**

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 27 2007**

A07D0211. WAYNE DOUGLAS STRICKLAND v. THE STATE.

Wayne Douglas Strickland seeks to appeal from an order denying his "Motion for New Trial as to Sentencing Only." Strickland, who was sentenced as a recidivist under OCGA § 17-10-7 (c), argues that the sentencing court was required to consider probating or suspending part of his sentence. He does not claim, however, that his sentence is void, meaning a sentence that the law does not allow.

This Court affirmed Strickland's conviction in an unpublished opinion. *Strickland v. State*, 251 Ga. App. XXVII (2001). Thereafter, this Court dismissed Strickland's application for discretionary appeal (A04D0350) from an order denying his "Extraordinary Motion to Vacate Judgment and Sentence." Subsequent to that decision, this Court entered an order in September 2006, dismissing Strickland's discretionary application (A07D0027) from an order denying his "Motion for Void Sentence."

Because Strickland does not argue that his sentence exceeds the maximum permitted by law, this application for appeal from a non-appealable order is **DISMISSED** for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 27 2007

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.

Willie L. Martinez, Clerk.

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

ATLANTA, APRIL 12, 2007

The Court of Appeals passed the following order

Case No. A07D0211

WAYNE DOUGLAS STRICKLAND V. THE STATE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 12, 2007*

*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. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: April 27, 2007

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 **S07C1230**

WAYNE DOUGLAS STRICKLAND v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0211

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 07 2007

MAY 07 2007 - sent to
S.C.

Clerk, Court of Appeals of Georgia

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

ATLANTA, APRIL 04, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0212
WARREN SKILLERN V. ROBERT PARIS, SHERIFF ET AL

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

93018

05CV45215

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 04 2007

*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. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 11 2007**

A07D0212. WARREN SKILLERN v. ROBERT PARIS, SHERIFF et al.

Appellant Skillern's motion for reconsideration is denied. Included in his motion for reconsideration is also a motion asking this court to order a clerk to provide Skillern with a copy of the order that he sought to appeal. Court of Appeals Rule 41 (b) prohibits the filing of compound motions, and further as this court denied Skillern's application to appeal, it has no jurisdiction to order the clerk, presumably of the superior court to take any action. Consequently, this motion is also denied.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 11 2007

*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.*

Willie L. Martin

, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 21, 2007

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 **S07C1345**

WARREN SKILLERN v. ROBERT PARIS, SHERIFF et al.

Clerk, Supreme Court of Georgia

Case No. A07D0212

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

MAY 23 2007

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

ATLANTA, MARCH 29, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0213
JENNIFER RENEE SPEAKS V. JAMES K. NOBLE

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

94018

061939942

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 29 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 10 2007**

A07D0214. BAPTISTE v. BYRD, warden.

Daryl W. Baptiste seeks an appeal from an order reissuing a prior order denying his motion to set aside an order entered in February 1999, denying habeas relief. Because Baptiste's application involves a challenge to the denial of his petition for writ of habeas corpus, the application is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art VI, § VI, ¶ III (4).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 10 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, APRIL 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0215
DONALD EUGENE LEE V. THE STATE

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

99018

SU06CR1694



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 10 2007

*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.

Willie L. Martin

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

ATLANTA, APRIL 13, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0216
ERIC CHRISTOPHER SMITH V. THE STATE

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

71018

2005CR013526



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 13 2007

*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.

A handwritten signature in black ink, appearing to read "William L. Martinez", is written over a faint, illegible printed name.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 02, 2007

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 **S07C1261**

ERIC CHRISTOPHER SMITH v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0216

Court of Appeals of Georgia

Notice of Petition for Certiorari

MAY 04 2007

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, APRIL 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0217
SOUTHERN CRESCENT REHABILITATION & RETIREMENT CENTER, INC.,
V. GEORGIA DEPARTMENT OF COMMUNITY HEALTH

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.

95019
2005CV109519

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 11 2007

*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. Mat. Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 22 2007

**A07D0218. BRIAN JOSEPH MOYER v. DEBRA MOYER-PARSONS F/K/A
DEBRA LIBBEY MOYER.**

Brian Joseph Moyer seeks a discretionary appeal from an order of the superior court entered in a contempt action brought by the respondent involving the child support and other provisions of the parties' final divorce decree. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Moyer's application is therefore TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 22 2007

*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.*

Willie L. Martin Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 26 2007**

A07D0219. JAMES ALLEN GREENE v. WARREN GREENE, et al.

James Allen Greene seeks a discretionary appeal from an order finding him in contempt for nonpayment of alimony as provided by a settlement agreement incident to his final divorce decree. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Greene's application is therefore ordered TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 26 2007**

*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.*

Willie L. Martinez, Clerk.

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

ATLANTA, APRIL 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0220

KENNETH CURRY V. DEKALB COUNTY MERIT SYSTEM COUNCIL ET AL

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

90019

05CV1341910

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 18 2007



*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. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 27 2007**

A07D0221. CLIFFORD D. HENRY v. CHEROKEE COUNTY, GEORGIA.
A07D0223. MILTON BLANKENSHIP v. CHEROKEE COUNTY, GEORGIA.

Clifford D. Henry and Milton Blankenship each seek discretionary review of the trial court's final order granting Cherokee County, Georgia's request for a permanent injunction against Henry and Blankenship. The order Henry and Blankenship seek to appeal was entered in the trial court on February 15, 2006.¹ However, since the issues in this case are not subject to the discretionary appeal requirements, as they do not involve a review by the superior court of a decision by a lower tribunal, and since both Henry and Blankenship filed timely notices of appeal in the superior court, these applications are DISMISSED as superfluous. See *M. Wayne Robinson Builder-Developer, Inc. v. City of Rome*, 256 Ga. App. 114 (564 SE2d 526) (2002).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 27 2007**

*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.*

 , Clerk.

¹Henry's application was timely filed on March 19, 2007. However, Blankenship's application was not filed until March 20, 2007, 33 days after entry of the order he seeks to appeal. Thus, Blankenship's application is untimely and this Court lacks jurisdiction to consider an untimely application. See OCGA § 5-6-35 (d).

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 11 2007**

A07D0222. PRAD GROUP, INC. v. COMPREHENSIVE STAFFING SOLUTIONS, INC.

Comprehensive Staffing Solutions, Inc. (“Comprehensive”) sued PRAD Group, Inc. (“PRAD”). Comprehensive moved for summary judgment, which the trial court granted. In response, PRAD filed a “Motion for Reconsideration, to Shorten Time for Response, and For Expedited Consideration.” The trial court denied this motion on February 16, 2007.

PRAD filed an application for discretionary appeal to this Court, contending that its motion was in substance a motion to set aside the summary judgment and that this Court therefore had jurisdiction to consider the application under the discretionary appeal statute. See OCGA § 5-6-35 (a) (8). A review of the motion reveals, however, that it fails to meet the requirements for a motion to set aside under OCGA § 9-11-60 (d) in that it does not allege “(1) [l]ack of jurisdiction over the person or the subject matter; (2) [f]raud, accident, or mistake or the acts of the adverse party unmixed with the negligence or fault of the movant; or (3) [a] nonamendable defect which appears upon the face of the record or pleadings.” OCGA § 9-11-60 (d); *Harris v. State*, 278 Ga. 280, 282 (600 SE2d 592) (2004).

The application materials thus reveal that the order PRAD appeals from is in fact a ruling on a motion for reconsideration of the trial court’s order granting summary judgment to Comprehensive. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). A motion for reconsideration does not extend the time for filing an application for discretionary appeal. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). The time requirement in OCGA § 5-6-35 (d)

is jurisdictional, and because PRAD failed to file a timely application for appeal, it is DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 11 2007**

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

Will. L. Martinez , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 27 2007**

A07D0221. CLIFFORD D. HENRY v. CHEROKEE COUNTY, GEORGIA.
A07D0223. MILTON BLANKENSHIP v. CHEROKEE COUNTY, GEORGIA.

Clifford D. Henry and Milton Blankenship each seek discretionary review of the trial court's final order granting Cherokee County, Georgia's request for a permanent injunction against Henry and Blankenship. The order Henry and Blankenship seek to appeal was entered in the trial court on February 15, 2006.¹ However, since the issues in this case are not subject to the discretionary appeal requirements, as they do not involve a review by the superior court of a decision by a lower tribunal, and since both Henry and Blankenship filed timely notices of appeal in the superior court, these applications are DISMISSED as superfluous. See *M. Wayne Robinson Builder-Developer, Inc. v. City of Rome*, 256 Ga. App. 114 (564 SE2d 526) (2002).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 27 2007**

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Will. L. Martin, Clerk.

¹Henry's application was timely filed on March 19, 2007. However, Blankenship's application was not filed until March 20, 2007, 33 days after entry of the order he seeks to appeal. Thus, Blankenship's application is untimely and this Court lacks jurisdiction to consider an untimely application. See OCGA § 5-6-35 (d).

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

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 09 2007**

A07D0223. BLANKENSHIP v. CHEROKEE COUNTY, GEORGIA

Milton Blankenship has filed a motion to change the filing date of this application. However, because the issues sought to be appealed were directly appealable, and Blankenship filed a timely notice of appeal in the trial court, this application was dismissed as superfluous. Thus, the application is no longer pending and the motion is unnecessary. Accordingly, the motion is dismissed.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **APR 09 2007**

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Willie L. Martin, Clerk.

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

ATLANTA, APRIL 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0224
WILLIAM H. SEWELL III V. TERESA SEWELL

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

97019

06CV2376



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 10 2007

*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.

Willie L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

APR 11 2007

The Court of Appeals hereby passes the following order:

**A07D0225. DANIEL DE LA REZA et al. v. OSPREY CAPITAL, LLC AS
SUCCESSOR IN INTEREST TO FIRST UNION NATIONAL BANK.**

The applicants have filed this application for discretionary appeal of the trial court's denial of their post-judgment "motion to modify, clarify, interpret, amend, void or otherwise correct judgment to show that plaintiff may not collect the same debt twice" under OCGA § 9-12-16. Because the order complained of constitutes the final disposition of a post-judgment matter not enumerated in OCGA § 5-6-35 (a), it is directly appealable. Under OCGA § 5-6-35 (j), when the appeal of a directly appealable order is initiated by filing an otherwise timely application for discretionary appeal without also filing a timely notice of appeal, the appellate court shall grant the application. Here, however, the applicants indicate that they have filed a notice of direct appeal in addition to the instant application. Due to the pending direct appeal, OCGA § 5-6-35 (j) is inapplicable, and the present application is redundant and is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 11 2007

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*Witness my signature and the seal of said court
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Willie L. Martin, Clerk.

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

ATLANTA, APRIL 12, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0226

THURSTON WALLER V. THE STATE

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

94019

2004CR33



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 12 2007

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 20 2007**

A07D0227. REED v. REED, et al.

Upon consideration of the above styled application for appeal, the application is hereby *denied*. The motion filed by the attorneys for the Ingles to withdraw as counsel in this matter is *dismissed* as moot.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 20 2007**

*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. Martinez, Clerk.



SUPREME COURT OF GEORGIA

Case No. S07D0914

Atlanta **March 23, 2007**

The Honorable Supreme Court met pursuant to adjournment.

FILED IN OFFICE

The following order was passed:

MAR 23 2007

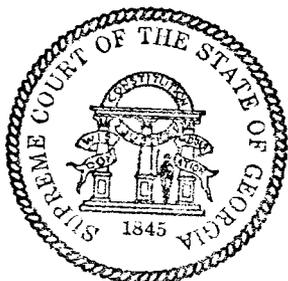
COURT CLERK
CLERK COURT OF APPEALS OF GA

THOMAS RICHARD HOPSON, JR. v. MYRA DEANNA DEVIT

From the Superior Court of Cobb County.

The application seeks to appeal the denial of the motion for new trial that challenged an order of contempt addressing provisions of the final judgment of divorce and incorporated settlement agreement, which deal solely with equitable division of property. Because the application does not seek to appeal a final judgment of divorce and does not involve issues of alimony or child support, it does not fall within this Court's subject matter jurisdiction. Ga. Const. of 1983, Art. VI, Sec. VI, Para. III (6); Cale v. Byrdwell, 166 Ga. App. 901 (305 SE2d 468) (1983) (Court of Appeals lacks jurisdiction over appeal of contempt petition for failure to transfer property where jury designated property transfer as alimony). Therefore, the Court hereby transfers the application to the Court of Appeals.

RECEIVED IN OFFICE
MAR 23 PM 3:30
CLERK COURT OF APPEALS OF GA



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

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

Suzette Edison, Deputy Clerk

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

ATLANTA, APRIL 17, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0228

THOMAS RICHARD HOPSON JR. V. MYRA DEANNA DEVIT

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

99019

021579818



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 17 2007

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

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Clerk.

Willie L. Martinez

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

ATLANTA, APRIL 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0229
DANA L. BAPST V. JOHN B. WILLIAMS

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

71019

2006CV10588



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2007

*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.

Willie L. Martinez

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

ATLANTA, MAY 18, 2007

The Court of Appeals passed the following order

Case No. A07D0229

DANA L. BAPST V. JOHN B. WILLIAMS

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 18, 2007*



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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin

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

ATLANTA, APRIL 19, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0230
SAUNDRA ROGERS-MEADOW ET AL V. ROBIN FANNIN

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

95020

2002CV54695



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

APR 19 2007

*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 above written.*

*Clerk.
Will. L. Mat. Jr.*

Court of Appeals of the State of Georgia

ATLANTA,

APR 10 2007

The Court of Appeals hereby passes the following order:

A07D0231. COREY McCLENDON v. THE STATE.

Corey McClendon, who is proceeding pro se, has filed a timely application for discretionary appeal seeking to appeal an order dismissing his petition to correct a void sentence. McClendon contends that due to changes to OCGA § 16-6-3, his conviction for felony statutory rape is void and he cannot be required to comply with OCGA § 42-1-12, the Sexual Offender Registry statute.

The denial of a motion to correct a void sentence is directly appealable. *Williams v. State*, 271 Ga. 686, 688-689 (1) (523 SE2d 857) (1999). McClendon's application is therefore GRANTED under OCGA § 5-6-35 (j). McClendon shall have ten days from the date of this order to file his notice of appeal with the superior court. The clerk of the superior court is 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

APR 10 2007

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Mat... , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 10 2007**

A07D0232. JENNIFER LANDRUM HADDEN v. THOMAS CHAD HADDEN.

Because this application for discretionary review is from a final judgment and decree of divorce, the application is transferred to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6).



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 10 2007**

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Will. L. Martin, Clerk.

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

ATLANTA, APRIL 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0233
1ST ODYSSEY GROUP ET AL V. RODNEY ADKISON

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.

90020

06CV477



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 25 2007**

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Clerk.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 11 2007**

A07D0234. JEFFREY JACKSON v. RENT-A-CENTER, INC. ET AL.

Jeffrey Jackson seeks discretionary review of the superior court's order which reversed a December 22, 2006 decision of the Appellate Division of the State Board of Workers' Compensation and denied a motion to set aside judgment pursuant to OCGA § 9-11-60 (d) entered on February 26, 2007. This application was filed on March 29, 2007. However, an application for discretionary appeal must be submitted within 30 days of the date the order sought to be appealed is entered. OCGA § 5-6-35 (d). Jackson's application for discretionary appeal was docketed in this Court on March 29, 2007, 31 days after the February 26, 2007 order of which he complains. Accordingly, Jackson's application is untimely. Because this Court lacks jurisdiction to consider untimely applications, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 11 2007**

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martin, Clerk.

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

ATLANTA, APRIL 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0235

EAGLE REALTY AND INVESTMENT COMPANY V. JOSEFINA SOTELO

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

97020

1B06CV199



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 18 2007

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Clerk.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 02 2007

A07D0236. FIELDCREST CANNON, INC. et al. v. AARON HUNT.

Fieldcrest Cannon, Inc. and its insurer, Broadspire Services, Inc. f/n/a Kemper Insurance Company, filed this application for discretionary appeal in a workers' compensation case. The employer/insurer seek to appeal an order entered in superior court that affirmed a decision by the Appellate Division of the State Board of Workers' Compensation ("Board") denying their motion to dismiss claimant Aaron Hunt's request for a hearing. Hunt's claim for workers' compensation benefits remains pending below.

"[O]nly a *final* award, order, judgment or decision of the [State Board of Workers' Compensation] is subject to appeal to the superior court." (Emphasis in original; citation omitted.) *Cartwright v. Midtown Hosp.*, 243 Ga. App. 828, 829 (534 SE2d 504) (2000). "[N]owhere in our workers' compensation statute is there provision for an interlocutory appeal." (Citation omitted.) *GAC, MFG/Processing v. Busbin*, 233 Ga. App. 406 (504 SE2d 270) (1998) (superior court lacked jurisdiction to review Board's order remanding case to ALJ).

In the present application, the decision of the Board appealed to superior court is a decision on an interlocutory matter, i.e., whether or not Hunt had waived his right to request a hearing. The Board's decision is not a final order or award granting or denying compensation and the issue involved herein can be reviewed upon entry of a final order or award. See *Cartwright*, 243 Ga. App. at 830 (superior court was without jurisdiction to review non-final decision of the Board). Because we conclude that the superior court did not address a final award or final decision of the Board,

this application presents nothing for review. The employer/insurer's application is therefore DISMISSED as premature. See *Gilman Paper Co. v. Davis*, 230 Ga. App. 364 (496 SE2d 469) (1998).



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 02 2007**

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.

Willie L. Martin, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 15, 2007

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 **S07C1307**

LOTT'S LOGGING et al. v. EALIE BATTEN

Clerk, Supreme Court of Georgia

Case No. A07D0237

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 17 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, APRIL 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0237
LOTT'S LOGGING ET AL V. EALIE BATTEN

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

94020

CE0700108063



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 26 2007

*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. Mat... [Signature]*

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

APR 11 2007

A07D0238. RANDAL J. CHATHAM v. SHERIFF MIKE YEAGER.

Randal Chatham filed this discretionary application seeking review of the trial court's dismissal of his mandamus action. Under Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5), the Supreme Court has jurisdiction over appeals involving extraordinary remedies such as mandamus. *James v. State*, 120 Ga. App. 317 (170 SE2d 303) (1969). This application for discretionary review is therefore TRANSFERRED to the Supreme Court.



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

APR 11 2007

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Willie L. Mat... , Clerk.

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

ATLANTA, MAY 04, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0239
WAYNE DOUGLAS ROBERTS V. THE STATE

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

99020

98RCCR837



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 04 2007**

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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.

Willie L. Matz

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

ATLANTA, APRIL 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0240
CRAIG BRAZEMAN V. DOUGLAS MARCOTTE

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.

71020

2007CV129440



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2007

*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

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

ATLANTA, APRIL 27, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0241

LINDA LLOYD V. ADVANTAGE BEHAVIORAL HEALTH SYSTEMS

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.

95021

SU06CV1921



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 27 2007

*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.

Willi L. Mat...

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

ATLANTA, MAY 01, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0242
BERTHA TOWNSEND V. ATLANTA BOARD OF EDUCATION

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

96021

2006CV127575



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 01 2007

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

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

Will. L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 25 2007**

A07D0243. ROBERTO TORRES-ONOFRE v. THE STATE.

Roberto Torres-Onofre seeks to appeal the superior court's order that affirmed the municipal court's ruling that a probationer's failure to report automatically suspends the running of a probated sentence. The superior court observed that Torres-Onofre has completed his probated sentence. Therefore, any question regarding the tolling of his probation has been rendered moot. OCGA § 5-6-48 (b) (3). And although the error, if any, is capable of repetition, there is no reason why it would evade review. Accordingly, Torres-Onofre's appeal is DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2007

*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.*

Willie L. Mat...

, Clerk.

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

ATLANTA, APRIL 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0244

L & S CONSTRUCTION ET AL V. MARTIN LOPEZ

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.

90021

06CV21892



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 25 2007

*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

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

ATLANTA, MAY 07, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0245
GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL V.
ISAAC ANDERSON

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.

91021

2006CV054



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 07 2007

*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.

Willie L. Matinez

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

ATLANTA, MAY 02, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0246
EARNEST EAYRS ET AL V. THE CITY OF COLLEGE PARK

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

70021

2006CV122127



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 02 2007

*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.

Willie L. Martinez

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 22, 2007

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 **S07C1360**

EARNEST EAYRS et al. v. CITY OF COLLEGE PARK

Clerk, Supreme Court of Georgia

Case No. A07D0246

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 29 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

APR 16 2007

A07D0247. CHARLES HARPER v. THE STATE.

On March 5, 2007, Charles Harper, *pro se*, filed an application for discretionary appeal in the Georgia Supreme Court, seeking review of several orders denying motions he had filed in the trial court challenging his guilty plea to voluntary manslaughter, aggravated assault, and criminal attempt to commit armed robbery. All of the orders were entered January 5, 2007. On March 23, 2007, the Supreme Court transferred the application to this Court. By letter dated March 26, 2007, however, the Clerk of this Court returned the application to Harper on the basis that he failed to include the requisite filing fee or pauper's affidavit with the application. Harper refiled the application in this Court on April 9, 2007.

An application for discretionary appeal, however, must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Harper filed his application more than thirty days after entry of the orders he seek to appeal, the application is untimely. This Court lacks jurisdiction to consider an untimely application. The application is therefore DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 16 2007

*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.*

Willie L. Mat... Clerk.

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

ATLANTA, MAY 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0248
JERRY JARBOE V. CYNTHIA JARBOE

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

93021

07GR34277



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 10 2007

*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. Mat... [Signature]

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

ATLANTA, JUNE 04, 2007

The Court of Appeals passed the following order

Case No. A07D0248

JERRY JARBOE V. CYNTHIA JARBOE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 04, 2007*

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

APR 26 2007

**A07D0249. CHARLES G. WILLIAMS, III v. PROFESSIONAL
STANDARDS COMMISSION, ET AL.**

On April 11, 2007, this Court docketed the above Discretionary Application, notwithstanding the fact that the application is entitled an Interlocutory Appeal pursuant to OCGA §5-6-34(a)(7). Since the application appeared to be an appeal of a ruling of the Georgia Professional Standards Commission and since the application did not contain a Certificate of Immediate Review which is required to convey jurisdiction of the Court of Appeals in an Interlocutory Application (OCGA §5-6-4(b)), this Court assumed the pro se applicant intended for the pleading to be a Discretionary Application.

On April 17, 2007, the pro se, Charles G. Williams, III, filed a document entitled, "Emergency Motion to Correct Docketing and Application for Writ of Supersedeas". In that document, Williams states his document which was docketed as a Discretionary Application was in fact the Brief he offered to this Court on his direct appeal, which has not yet been docketed in this Court.

In the Prayer for Relief in a motion filed with this Court on April 17, 2007, Williams prays that the docket reflect Williams' intention to appeal as a matter of right pursuant to OCGA §5-6-34(a)(7) and OCGA §9-11-11.1(b); that the Court amend its docket to reflect that a Emergency Motion for Supersedeas was filed with this Court on April 11, 2007; that the Court amend its docket to reflect that Williams' Appellant Brief on the merits was filed in this case on April 11, 2007 and to amend the Docketing Notice to reflect the appellees have twenty (20) days to file Appellees' Brief in this case from April 11, 2007.

Upon consideration of the prayers for relief in the motion offered by appellant, the same are hereby DENIED. The clerk of this Court is ordered and directed to re-docket the Application for Discretionary Appeal as an Interlocutory Application.

Since the Interlocutory Application does not contain a Certificate of Immediate Review authorizing an appeal of the trial court's order as required by OCGA § 5-6-34(b), this Court lacks jurisdiction over this application, which is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 26 2007

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. Martinez

Court of Appeals of the State of Georgia

ATLANTA, APRIL 30, 2007

The Court of Appeals hereby passes the following order:

**A07D0249. CHARLES G. WILLIAMS, III v. PROFESSIONAL
STANDARDS COMMISSION, ET AL.**

The Court's order of April 26, 2007 in the above application is incorrect due to clerical error. The attached order is substituted therefore.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

April 30, 2007

*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 "Willis L. Matz". The signature is written in a cursive style with a long horizontal stroke at the end.

Court of Appeals of the State of Georgia

ATLANTA, APRIL 26, 2007

The Court of Appeals hereby passes the following order:

**A07D0249. CHARLES G. WILLIAMS, III v. PROFESSIONAL
STANDARDS COMMISSION, ET AL.**

On April 11, 2007, this Court docketed the above Discretionary Application, notwithstanding the fact that the application is entitled an Interlocutory Appeal pursuant to OCGA §5-6-34(a)(7). Since the application appeared to be an appeal of a ruling of the Georgia Professional Standards Commission and since the application did not contain a Certificate of Immediate Review which is required to convey jurisdiction of the Court of Appeals in an Interlocutory Application (OCGA §5-6-34(b)), this Court assumed the pro se applicant intended for the pleading to be a Discretionary Application.

On April 17, 2007, the pro se, Charles G. Williams, III, filed a document entitled, "Emergency Motion to Correct Docketing and Application for Writ of Supersedeas". In that document, Williams states his document which was docketed as a Discretionary Application was in fact the Brief he offered to this Court on his direct appeal, which has not yet been docketed in this Court.

In the Prayer for Relief in a motion filed with this Court on April 17, 2007, Williams prays that the docket reflect Williams' intention to appeal as a matter of right pursuant to OCGA §5-6-34(a)(7) and OCGA §9-11-11.1(b); that the Court amend its docket to reflect that a Emergency Motion for Supersedeas was filed with this Court on April 11, 2007; that the Court amend its docket to reflect that Williams' Appellant Brief on the merits was filed in this case on April 11, 2007 and to amend the Docketing Notice to reflect the appellees have twenty (20) days to file Appellees' Brief in this case from April 11, 2007.

Upon consideration of the prayers for relief in the motion offered by appellant, the same are hereby DENIED. The clerk of this Court is ordered and directed to re-docket the Application for Discretionary Appeal as an Interlocutory Application.

Since the Interlocutory Application does not contain a Certificate of Immediate Review authorizing an appeal of the trial court's order as required by OCGA § 5-6-34(b), this Court lacks jurisdiction over this application, which is ordered DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

April 26, 2007

*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.

William L. Martinez

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

ATLANTA, MAY 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0250
CAROL REISS V. THE STATE ET AL

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

92021

SU06CV0911



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 10 2007

*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.

Willie L. Martinez

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

ATLANTA, MAY 08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0251
ZACHARY PATTERSON V. THE GEORGIA DEPARTMENT OF HUMAN
RESOURCES ET AL

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

99021

061131740



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 08 2007

*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.

Willie L. Matia

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

ATLANTA, MAY 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0252

GIBBY CONSTRUCTION, INC., V. COVENANT MANAGEMENT, INC

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

71021

2006SV1925



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 11 2007

*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 L. Martin

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

ATLANTA, MAY 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0253

HABERSHAM COUNTY MEDICAL CENTER ET AL V. KATHIE SANDERS

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

95022

07SUCV91



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 11 2007

*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.

Willie L. Martin

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

ATLANTA, MAY 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0254
DUSTY OLSEN V. JACQUELINE BRIDGES HILL

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

96022

CE0600758063



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

MAY 10 2007

*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. Mat... [Signature]

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

ATLANTA, MAY 07, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0255

DONALD MADDOX V. DEPARTMENT OF CORRECTIONS AND BOARD OF
PARDONS AND PAROLE

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

98022

2007CV613



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 07 2007**

*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.

Willie L. Martinez

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

ATLANTA, MAY 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0256
LESSIA TATE V. WILLIAM CHRISTOPHER SMITH ET AL

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

90022

DR050582



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 09 2007**

*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. Martinez

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

ATLANTA, MAY 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0257
WAL-MART STORES, INC., ET AL V. ALFONZO PARKER

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

91022

05CV30569



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 11 2007**

*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.

Willi L. Martin

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

ATLANTA, MAY 24, 2007

The Court of Appeals passed the following order

Case No. A07D0257

WAL-MART STORES, INC., ET AL V. ALFONZO PARKER

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



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 24, 2007

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: June 11, 2007

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 **S07C1464**

WAL-MART STORES, INC., et al. v. ALFONZO PARKER

Clerk, Supreme Court of Georgia

Case No. A07D0257

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 15 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 27 2007**

A07D0258. Alex Remington v. City of Berkely Lake

Alex Remington filed this application for discretionary appeal seeking review of the superior court's final order denying his Writ of Certiorari. The order Remington seeks to appeal was entered in the superior court on March 20, 2007. This application was filed on April 20, 2007. An application for discretionary appeal, however, must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Remington filed his application 31 days after entry of the order he seek to appeal, the application is untimely. This Court lacks jurisdiction to consider an untimely application. Accordingly this application is DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 27 2007**

*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 L. Matz, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 14 2007**

A07D0259. FITZROY LEE v. JACQUELINE IRBY.

Fitzroy Lee filed an action for modification of child support and contempt against his former wife, Jacqueline Irby. She counterclaimed for modification of child support, modification of visitation, and contempt. After the trial court entered an order resolving the issues of visitation and contempt, the father filed an application with this Court, seeking a discretionary appeal. "Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." *Thomas v. Douglas County*, 217 Ga. App. 520 (457 SE2d 835) (1995). The issue of modification of child support pursuant to OCGA § 19-6-15, as amended, remains pending; thus, the judgment for which an appeal is sought is not the final judgment in the case. The father was thus required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). The father's failure to do so deprives this Court of jurisdiction to consider this application, which is therefore DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 14 2007**

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.

Willie L. Matia, Clerk.

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

ATLANTA, MAY 17, 2007

The Court of Appeals hereby passes the following order:

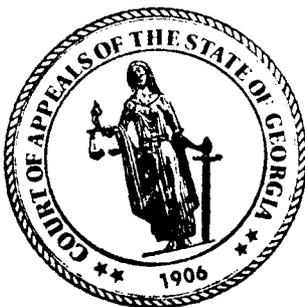
APPLICATION NO. A07D0260

VADIS J. FRONE SR. V. CHEROKEE PORTFOLIO SERVICES, LLC., ET AL

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

93022

2004CV04373



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 17 2007

*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.

Willi L. Mat...

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

ATLANTA, JUNE 18, 2007

The Court of Appeals passed the following order

Case No. A07D0260

VADIS J. FRONE SR. V. CHEROKEE PORTFOLIO SERVICES, LLC., ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 18, 2007*

*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 E. Mat: [Signature]

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 09, 2007

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 **S07C1607**

VADIS FRONE, Sr. v. CHEROKEE PORTFOLIO SERVICES, LLC., et al.

Clerk, Supreme Court of Georgia

Case No. A07D0260

JUL 09 2007

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 09 2007

A07D0261. DANIEL DELJOO, a/k/a SHAHROOKH DELJOO v. SUNTRUST MORTGAGE, INC. et al.

Daniel Deljoo filed with the Supreme Court an application for discretionary appeal of the grant of summary judgment to the respondents. He noted in the application that he filed it as a precaution, given that grants of summary judgment are directly appealable and he also had filed a notice of direct appeal. The Supreme Court transferred the application to this court, finding no basis to invoke Supreme Court jurisdiction.

Deljoo correctly asserts that the grant of summary judgment is directly appealable. OCGA § 9-11-56 (h); see *Culwell v. Lomas & Nettleton Company*, 242 Ga. 242, 243 (248 SE2d 641) (1978). 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, Deljoo asserts that he has timely filed a notice of appeal. Thus, OCGA § 5-6-35 (j) does not apply and this application is DISMISSED.



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

MAY 09 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, MAY 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0262
GERALD EMERY V. EDWARD HAMMIT ET AL

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

92022

2006CA31474



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 10 2007

*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. Martinez

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

ATLANTA, MAY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0263

KEYSTONE AUTOMOTIVE ET AL V. GORDON LUTHER HALL, SR., 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.

99022

07CV46385



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 18 2007

*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.*

Wili. L. Mat. Jr.
Clerk

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

ATLANTA, MAY 22, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0264
KEVIN M. OLIVER V. SHARON TROTTER

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

71022

07CV11515



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 22 2007**

*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.

Willie L. Martinez

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

ATLANTA, MAY 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0265

BRUCE JONES V. THE STATE

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

95023

CR860666



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

MAY 10 2007

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 18 2007**

A07D0266. YOON SANG CHOI d/b/a USK DAILY NEWS v. HEON SOON IM.

On January 24, 2007, the trial court entered an order requiring Yoon Sang Choi d/b/a USK Daily News and Choi's former attorney, Irene Kim, to pay attorney fees pursuant to OCGA § 9-15-14. Kim then filed a direct appeal from that order. This Court dismissed the direct appeal because when the only order being appealed is a judgment awarding attorney fees under OCGA § 9-15-14, a discretionary application to appeal is required. *Capricorn Systems, Inc. v. Godavarthy*, 253 Ga. App. 840 (560 SE2d 730) (2002).

After our dismissal of the direct appeal, Kim filed an application for discretionary appeal on April 25, 2007. The order Kim seeks to appeal was entered in the trial court on January 24, 2007. The application was not filed until April 25, 2007, 91 days after entry of the order sought to be appealed. Because the application was not filed within 30 days of the entry of the order sought to be appealed as required by OCGA § 5-6-35 (d), it is untimely. Kim's failure to comply with the discretionary appeal requirements deprives this Court of jurisdiction to consider her application. Accordingly, this application is ordered DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 18 2007**

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, JUNE 22, 2007

The Court of Appeals passed the following order

Case No. A07D0266

YOON SANG CHOI D/B/A USK DAILY NEWS V. HEON SOON IM

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 22, 2007*

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

MAY 07 2007

The Court of Appeals hereby passes the following order:

A07D0267. DAMIOUS FORD v. THE STATE.

On April 25, 2007, Damious Ford filed this application for discretionary appeal of the March 6, 2007 amended order revoking his probation. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Ford filed his application 50 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

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

MAY 07 2007

*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.*

Willie L. Martin, Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 09 2007**

A07DO268. NEW MANCHESTER RESORT AND GOLF LLC v. CITY OF DOUGLASVILLE, ET AL.

New Manchester Resort and Golf LLC ("NMRG") sued the appellees challenging the application of certain zoning ordinances to a plat of land it intends to develop in Douglasville. NMRG moved for partial summary judgment on three counts in its complaint, including a count of mandamus. The trial court denied NMRG's motion for partial summary judgment in its entirety and now NMRG is seeking discretionary review.

"[C]ases involving the grant or denial of mandamus are within the exclusive jurisdiction of [the Supreme] Court without regard to the underlying subject matter or the legal issues raised." *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006). See also, *Lamar County v. E.T. Carlyle Co.*, 277 Ga. 690 (594 SE2d 335) (2004). Because NMRG seeks mandamus in this case, this appeal is hereby TRANSFERRED to the Supreme Court.



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

MAY 09 2007

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. McIntire, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 25 2007**

A07D0269. SPRINGSTON v. SPRINGSTON.

Applicant Donna Springston filed the above styled divorce action in Henry County on September 22, 2006. Respondent filed his own divorce action in an Arizona court on September 13, 2006. It is undisputed that the parties are now divorced by order of the Arizona court entered on a November 22, 2006. Respondent thereafter moved the superior court to dismiss the above styled case. The superior court dismissed Springston's divorce action with prejudice on March 28, 2007. She now seeks an appeal to this court. She argues that the superior court erred in dismissing the action without first declaring the rights of the parties or otherwise rendering a decision on the equitable division of certain real property owned in Georgia.

Springston's application presents a jurisdictional conundrum for this court. It is undisputed that the parties are divorced by a decree entered in another state. Ordinarily this fact alone would exclude the case from the Supreme Court's divorce and alimony jurisdiction. Moreover, it is certainly not unreasonable to conclude that any matters the superior court theoretically should have addressed before dismissing this divorce case do not involve divorce or alimony within the meaning of Const. of 1983, Art. VI, § VI, Par. III (6), as interpreted by the Supreme Court. The fact remains, however, that what Springston seeks here is appellate review of an order dismissing her Georgia action for divorce in its entirety. Because we conclude that only the Supreme Court has jurisdiction to consider fully the theoretical merits of Springston's application as a matter of first impression under these unique circumstances, the application is hereby *transferred* to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 25 2007**

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. Mat...

, Clerk.



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

ATLANTA, MAY 17, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0270

BOBBIE LEE ANN GIBSON V. WAL-MART STORES, INC., ET AL

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

70023

2007CV00591



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 17 2007

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 07 2007**

**A07D0271. BUDDY ALLEN v. ESTATE OF KATHERINE HENSON,
DECEASED.**

Buddy Allen filed a timely application for discretionary appeal from an order of the probate court dismissing his petition in which he sought commissions and reimbursement for expenses he alleges he incurred selling property and liquidating a business belonging to the Estate of Katherine Henson, deceased. No provision of OCGA § 5-6-35 (a), however, is applicable here. Accordingly, Allen's application is hereby *granted* as required under OCGA § 5-6-35 (j).¹ Allen shall have ten days from the date of this order to file his notice of appeal in the probate court. The clerk of the probate 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

MAY 07 2007

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

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Will. L. Martin, Clerk.

¹This Court has jurisdiction to consider an appeal in this case pursuant to OCGA §§ 5-6-33, 15-9-120, and 15-9-123 (appeals from orders of probate courts in counties with populations greater than 96,000).

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

ATLANTA, MAY 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0272
FEMI M. AKINDELE V. WILLIAM T. JONES

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

93023

2006CV111743



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 25 2007**

*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. Martinez

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

ATLANTA, MAY 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0273
GERALD BENSON V. BROCK INVESTMENTS, INC.

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

94023

04CV2544



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 09 2007

*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.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 10 2007**

**A07D0274. ANDREW RICHARD JONES D/B/A "JONES WATER SYSTEM"
v. SOUTHERN TRENCHING, INC., ET AL.**

Andrew Richard Jones filed this application seeking discretionary review of the grant of respondent Putnam County's motion for partial summary judgment. Jones further noted in his application that he had also filed a notice of direct appeal in the trial court out of an abundance of caution.

The grant of a motion for partial summary judgment is directly appealable. OCGA § 9-11-56 (h); see *Whiddon v. Stargell*, 192 Ga. App. 826, 828 (386 SE2d 884) (1989). 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, Jones asserts that he has timely filed a notice of appeal in the trial court. Thus, OCGA § 5-6-35 (j) does not apply and this application is DISMISSED as superfluous.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 10 2007**

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, MAY 22, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0275
JERRY M. STUBER V. FRANCES R. STUBER

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

99023

DR061766



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 22 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 10 2007**

A07D0276. DEBORAH HAMILTON v. RENEWED HOPE, INC.

Deborah Hamilton, Francis X. Moore and FXM, P.C. d/b/a Frank X. Moore & Associates filed this application for discretionary appeal seeking review of the trial court's order awarding attorney fees to Renewed Hope, Inc. pursuant to OCGA § 9-15-14. The underlying subject matter in this case involved the constitutionality of a statute. The Georgia Supreme Court reviewed this case on appeal and affirmed the trial court's order granting summary judgment to Renewed Hope, Inc. Ga. Const. of 1983, Art. VI, Sec. VI, Par. II (1). Renewed Hope, Inc. then filed a post-judgment motion for attorney fees pursuant to OCGA § 9-15-14.

As the Supreme Court stated in *Rebich v. Miles*, 264 Ga. 467-468 (448 SE2d 192) (1994), "the underlying subject matter generally controls over the relief sought in determining the proper appellate procedure." Here the underlying subject matter is within the exclusive jurisdiction of the Supreme Court and the attorney fees issue is merely ancillary to the issues resolved in the summary judgment order. Moreover, the Supreme Court reviewed this case on appeal and affirmed the trial court's ruling on the substantive legal issues. Thus, the Supreme Court is in a better position to review this application than the Court of Appeals. Accordingly, this application is TRANSFERRED to the Georgia Supreme Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 10 2007

*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.*

Willie L. Martin, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: May 30, 2007

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 **S07C1402**

DEBORAH HAMILTON v. RENEWED HOPE, INC.

Clerk, Supreme Court of Georgia

Case No. A07D0276

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

JUN 04 2007



SUPREME COURT OF GEORGIA

Case No. S07C1402

A07D0276

Atlanta October 9, 2007

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

DEBORAH HAMILTON v. RENEWED HOPE, INC.

The petition for certiorari in the above-styled case having been deemed frivolous under Court Rule 6, a penalty of \$1000 will be assessed against Deborah Hamilton, and in favor of the respondent by the trial court upon remittitur. All the Justices concur, except Benham and Hines, JJ., who dissent.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta



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

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

Jeannette Edison

,Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S07C1402

Atlanta, October 9, 2007

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DEBORAH HAMILTON v. RENEWED HOPE, INC.

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

All the Justices concur.

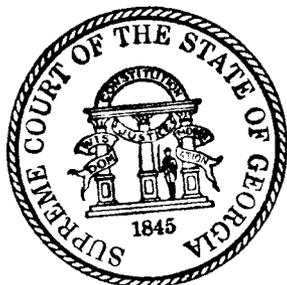
Bill of Costs, \$80.00
Court of Appeals Case No. MD0709

file

William R. McEachern
CLERK/CHIEF ADMINISTRATOR
SUPREME COURT OF GEORGIA

2007 NOV - 7 PM 2:43

RECEIVED IN OFFICE



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta November 07, 2007

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

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

Nathaniel J. Middleton, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 10 2007**

A07D0277. ROGER C. DAY v. GEORGIA DEPT. OF CORRECTIONS et al.

Roger C. Day, *pro se*, filed this application for discretionary review, seeking an appeal from the superior court's March 30, 2007 order dismissing his action and closing the case. The application was docketed in this Court on May 1, 2007, thirty-two days after the superior court entered the order. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Day filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is thus DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 10 2007**

*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.*

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 04 2007

A07D0277. ROGER C. DAY v. GEORGIA DEPT. OF CORRECTIONS et al.

Roger C. Day, a *pro se* prison inmate, has filed a motion for reconsideration of this Court's order dismissing his application for discretionary appeal on the basis that it was not timely filed. Day argues that he submitted the application to prison officials for mailing on April 23, 2007, and that under the prison mailbox rule of *Massaline v. Williams*, 274 Ga. 552 (554 SE2d 720) (2001), his application should be deemed to have been timely filed. While the Georgia Supreme Court in *Massaline* adopted a mailbox rule for habeas petitions filed by *pro se* prisoners in that court, this court has not adopted such a rule. Day does not seek habeas relief in this case. Day's motion for reconsideration is accordingly DENIED.

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

JUN 04 2007

*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.*

Willie L. Martin, Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 23 2007

A07D0278. RONNIE MCCOY v. IRAIDA MCCOY.

Ronnie McCoy has filed a pro se application for discretionary appeal. OCGA § 5-6-35 (d) requires the filing of an application with the clerk of this Court “within 30 days of the entry of the order, decision, or judgment complained of.” The order that McCoy seeks to appeal was entered on March 28, 2007. Because McCoy filed this application on May 2, 2007, 35 days after entry of the order at issue, the application is untimely. McCoy’s failure to comply with the discretionary appeal requirements deprives this Court of jurisdiction to consider his application. See *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000). Therefore, this application is ordered DISMISSED.

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

MAY 23 2007

*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.*

Willie L. Martin, Clerk.



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

ATLANTA, MAY 17, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0279
REGINALD REESE V. TARGET STORES, INC

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

98024

06CV144849



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 17 2007

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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.

Willie L. Mat...

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

ATLANTA, MAY 22, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0280
GEORGE DAVIS V. EVANS MILL PACKAGE STORE

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

90024

06CV144859



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 22 2007

*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 L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 24 2007**

A07D0281. OLD NATIONAL VILLAGES, LLC., v. LENOX PINES, LLC.

Upon consideration of the above styled application timely docketed in this court on April 26, 2007, the application is hereby *granted*. Respondent's motions to dismiss and for penalty for filing frivolous application are *denied*.

The applicant shall have ten days from the date of this order to file a notice of appeal with the state court. The state 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 **MAY 24 2007**

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.

Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 17 2007

A07D0282. BRENTWOOD NURSING, LLC et al. v. HENRY DRAKE et al.

A07D0286. ENDURACARE THERAPY MANAGEMENT, INC. v. HENRY DRAKE et al.

Brentwood Nursing, LLC, Brentwood Healthcare, LLC, and Jesup Healthcare, LLC ("Brentwood") seek discretionary review of the trial court's order denying their motion to clarify or set aside a default judgment. EnduraCare Therapy Management, Inc. ("EnduraCare") has also filed an application for discretionary review of the trial court's order denying its motion to set aside the default judgment as well as its motion for new trial. All parties seek to appeal the same order entered in the trial court on April 3, 2007.

An order which simultaneously denies both a motion for new trial and motion to vacate or set aside a judgment is directly appealable. *Martin v. Williams*, 263 Ga. 707, 709-710 (3) (438 SE2d 353) (1994); *Smith v. Dept. of Human Resources*, 214 Ga. App. 508, 509 (448 SE2d 372) (1994). Because the motion for new trial is directly appealable, all other rulings may also be appealed. OCGA § 5-6-34 (d). 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, EnduraCare timely filed a notice of appeal in the trial court on April 5, 2007. Brentwood also filed a timely notice of appeal on April 12, 2007. Thus, OCGA § 5-6-35 (j) does not apply and EnduraCare's and Brentwood's

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

ATLANTA, MAY 24, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0283
DORIS WHITE V. BE & K, INC., ET AL

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

97024

NONE



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 24 2007

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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.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 31 2007

A07D0284. DWAIN LEE KIRKLAND v. RUBY KIRKLAND et al.

Upon consideration of Dwain Lee Kirkland's application for a discretionary appeal, it is ordered that the application be DENIED.

Further, the Court finds the application for discretionary appeal to be frivolous and imposes a penalty pursuant to Court of Appeals Rule 15 (b). Accordingly, the motion for sanctions filed by Ruby Kirkland, Christopher Tamplin, and Kelley Tamplin is hereby GRANTED. See *Shamsai v. Coordinated Properties, Inc.*, 259 Ga. App. 438, 440 (3) (576 SE2d 901) (2003). The trial court is directed to enter judgment against the applicant and in favor of the respondents in the amount of \$1,000.00. See *Brown v. Benham*, 218 Ga. App. 518 (462 SE2d 184) (1995). The penalty may be collected in the same manner as other money judgments. See Court of Appeals Rule 15 (c).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 31 2007

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. Matz, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: June 20, 2007

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 **S07C1519**

DWAIN LEE KIRKLAND v. RUBY KIRKLAND et al.

Clerk, Supreme Court of Georgia

Case No. A07D0284

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, MAY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0285

AARON M. PONDER V. CACV OF COLORADO, LLC SUCCESSOR IN INTEREST
OF FLEET BANK V. AARON M. PONDER

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

94024

06C123786



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

MAY 18 2007

*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.

Willie L. Martin

C Court of Appeals
of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 17 2007

A07D0282. BRENTWOOD NURSING, LLC et al. v. HENRY DRAKE et al.

A07D0286. ENDURACARE THERAPY MANAGEMENT, INC. v. HENRY DRAKE et al.

Brentwood Nursing, LLC, Brentwood Healthcare, LLC, and Jesup Healthcare, LLC (“Brentwood”) seek discretionary review of the trial court’s order denying their motion to clarify or set aside a default judgment. EnduraCare Therapy Management, Inc. (“EnduraCare”) has also filed an application for discretionary review of the trial court’s order denying its motion to set aside the default judgment as well as its motion for new trial. All parties seek to appeal the same order entered in the trial court on April 3, 2007.

An order which simultaneously denies both a motion for new trial and motion to vacate or set aside a judgment is directly appealable. *Martin v. Williams*, 263 Ga. 707, 709-710 (3) (438 SE2d 353) (1994); *Smith v. Dept. of Human Resources*, 214 Ga. App. 508, 509 (448 SE2d 372) (1994). Because the motion for new trial is directly appealable, all other rulings may also be appealed. OCGA § 5-6-34 (d). 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, EnduraCare timely filed a notice of appeal in the trial court on April 5, 2007. Brentwood also filed a timely notice of appeal on April 12, 2007. Thus, OCGA § 5-6-35 (j) does not apply and EnduraCare’s and Brentwood’s

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

ATLANTA, MAY 24, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0287
JERMAINE C. KING V. THE STATE

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

92024

SU2005CR2073



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 24 2007

*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. Mat... [Signature]

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

ATLANTA, MAY 30, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0288
KIRK BUBLAVI V. YANCEY BROTHERS ET AL

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

99024

07CV00443



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 30 2007

*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

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: June 27, 2007

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 **S07C1554**

KIRK BUBLAVI v. YANCY BROTHERS et al.

Clerk, Supreme Court of Georgia

JUL 05 2007

Case No. A07D0288

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 04, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0289
PATINO AUTOMOTIVE V. ASHLEY ROGERS

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

71024

06CI2207

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 04 2007**



*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 31 2007**

A07D0290. NELSON KELLEY v. THE STATE.

On September 8, 2005, Nelson Kelley pled guilty to possession of cocaine in superior court. OCGA § 40-5-75 (a) provides that “[t]he driver’s license of any person convicted of any violation of the Georgia Controlled Substances Act . . . shall by operation of law be suspended.” Upon accepting Kelley’s guilty plea, however, the superior court did not require Kelley to surrender his driver’s license for forwarding to the State Department of Driver’s Services, as required by OCGA § 40-5-75 (b), and Kelley was not otherwise served with notice of the suspension. On November 1, 2005, Kelley’s driver’s license was suspended due to his non-compliance with a child support order. Again, Kelley was not served with notice of the driver’s license suspension.

On January 11, 2006, Kelley was arrested for driving with a suspended license. At the trial of the case in municipal court, Kelley raised as an affirmative defense a constitutional challenge alleging that OCGA § 40-5-75’s requirement that his license be suspended by operation of law upon conviction of a drug charge deprived him of his procedural due process rights, where he was given no actual notice of the suspension. The municipal court, however, held that Kelley’s constitutional rights had not been violated, and the superior court affirmed. Kelley has now filed an application for discretionary appeal to this Court, seeking review of the superior court’s order.

The Supreme Court “has exclusive jurisdiction over all cases involving construction of the Constitution of the State of Georgia and of the United States and all cases in which the constitutionality of a law, ordinance, or constitutional provision

has been called into question.” *Atlanta Independent School System v. Lane*, 266 Ga. 657 (1) (469 SE2d 22) (1996); Ga. Const. of 1983, Art. VI, Sec. VI, Para. II. This Court has no jurisdiction to determine the constitutionality of a state law unless the law has been held to be constitutional on the same grounds raised in a prior appeal or the question involves the application of unquestioned and unambiguous provisions of the Constitution. *Zepp v. Mayor & City of Athens*, 255 Ga. 449, 451 (2) (339 SE2d 576) (1986). In *Quiller v. Bowman*, 262 Ga. 769 (425 SE2d 641) (1993), the Supreme Court addressed the constitutionality of OCGA § 40-5-75, holding that the statute did not violate the due process or equal protection clauses of the United States or Georgia Constitutions. *Quiller* specifically addressed the issue of whether a defendant’s due process rights are violated by OCGA § 40-5-75’s requirement that his driver’s license be suspended for conviction of a drug offense that does not involve motor vehicles. *Quiller*, however, did not address the issue presented in this case, that is, whether the suspension of one’s driver’s license by operation of law pursuant to OCGA § 40-5-75 constitutes a violation of his procedural due process rights when he was given no notice that his license had been suspended, including no notice by the trial court at his drug trial, as required by OCGA § 40-5-75 (b). Accordingly, jurisdiction is properly in the Supreme Court, and this appeal is thus ordered TRANSFERRED to that Court for disposition.

Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta **MAY 31 2007**

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. Mat... , Clerk.



Court of Appeals of the State of Georgia

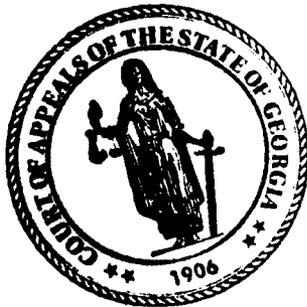
ATLANTA,

MAY 31 2007

The Court of Appeals hereby passes the following order:

A07D0291. ANTONIO BERGAE ETCHINSON v. THE STATE.

On May 10, 2007, Antonio Bergae Etchinson filed a pro se application to seek discretionary review of an order entered March 30, 2007, denying his motion for extraordinary new trial. OCGA § 5-6-35 (d) requires an application for discretionary appeal to be filed within 30 days of the entry of the order, decision, or judgment sought to be appealed. Because Etchinson did not file his application within 30 days of the entry of the order at issue, this 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 **MAY 31 2007**

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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. L. Mat... , Clerk.

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

ATLANTA, JUNE 28, 2007

The Court of Appeals passed the following order

Case No. A07D0291

ANTONIO BERGAE ETCHINSON V. THE STATE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 28, 2007*

*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.

Willie L. Martinez

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

ATLANTA, MAY 24, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0292
DAMIAN DUBOIS HAMLIN V. KRISTEN NOEL RAMEY

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.

98025

06A016622



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 24 2007**

*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. Matia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAY 25 2007

A07D0293. CAROLINE PINERES v. MICHAEL GEORGE.

Caroline Pineres seeks discretionary review of an April 9, 2007, order issued by the trial court, denying the parties' cross motions for contempt and ordering that the parties' counselor make final decisions regarding any disputed healthcare issues concerning their son. Both Pineres and respondent Michael George contend that the April 9 order improperly modifies the terms of their divorce decree in regard to their son's healthcare. Since the order sought to be appealed is ancillary to the parties' divorce decree, it is within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996). Therefore, this application is hereby TRANSFERRED to the Supreme Court for disposition.



7-25-07
Sending courier
for copy of
Application
2:50 spoke
to Beth

of Georgia

MAY 25 2007

This is a true extract from
the records of Georgia.

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

Willie L. Martin, Clerk.

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

ATLANTA, JUNE 05, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0294
SHAWN AVON MOSLEY V. THE STATE

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

91025
0690571



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 05 2007

*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.

Willi L. Mat... [Signature]

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

ATLANTA, MAY 29, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0295
LEROY BANKS III V. JULIETTE WILLIAMS

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

97025

06CV14224



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 29 2007**

*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. Matia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 12 2007

A07D0296. STANLEY LEWIS JONES v. THURBERT E. BAKER et al.

On May 14, 2007, Stanley Lewis Jones *pro se*, filed an application to this Court, seeking review of the trial court's March 29, 2007 "Final Order" in his case. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Jones filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, the application is ordered DISMISSED.

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

JUN 12 2007

*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 L. Martinez, Clerk.

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

ATLANTA, JUNE 04, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0297
THE STATE V. AUGUST B. FULLER

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.

94025

07CR00371



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 04 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 24 2007**

A07D0298. JACOB M. STREVEL v. MBNA AMERICA BANK, N.A.

Jacob M. Strevel seeks to appeal orders entered March 14, 2007 in favor of MBNA America Bank, N.A. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Strevel filed his application May 14, 2007,¹ 61 days after entry of the orders he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 24 2007

*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. Martin

, Clerk.

¹Strevel's original submission, sent May 4, 2007 by certified mail, was not accepted for filing because he did not include a certificate of service in violation of Court of Appeals Rule 6. Even had the Court accepted this submission for filing, it would have been untimely.

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

ATLANTA, JUNE 04, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0299

RASHIDA PEREZ V. TYRONE POOLE

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

99025

05A30595



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

JUN 04 2007

*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

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

ATLANTA, JUNE 13, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0300
DONNA MARIE WARE 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.

71025

2006CR101



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 13 2007

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

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Clerk.

Willie L. Martin

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

ATLANTA, JUNE 04, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0301
DE YING SUN V. MAL-WA FOOD TRADING COMPANY D/B/A 99 RANCH
MARKET ET AL

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

95026

07CV21107



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 04 2007

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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 L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 31 2007**

A07D0302. NELSON A. HOOKS v. THE STATE.

Nelson A. Hooks, *pro se*, filed this application for discretionary review, seeking an appeal from the superior court's March 28, 2007 order denying his motion to set aside void sentence. The application was docketed in this Court on May 17, 2007,¹ fifty days after the order was entered in the trial court. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Hooks filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, the application is ordered DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 31 2007**

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.

Willie L. Martin, Clerk.

¹Hooks earlier sent an application to this Court, which was rejected for docketing by the Clerk of this Court for failure to include the proper filing fee or a sufficient pauper's affidavit, as well as a stamped "filed" copy of the order he sought to appeal.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 22 2007**

A07D0302. NELSON A. HOOKS v. THE STATE.

Nelson A. Hooks' motion for reconsideration of this Court's May 31, 2007 order dismissing his application for discretionary appeal is DENIED. Hooks' "Motion to Submit Documentary Evidence" is DENIED as moot.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 22 2007**

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, JUNE 08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0303

WILLIAM HOLT V. THE STATE

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

98026

52525



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 08 2007

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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. L. Mat... [Signature]

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

ATLANTA, JUNE 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0304

DEPARTMENT OF HUMAN RESOURCES V. DWIGHT TEMPLES ET AL

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

90026

9530763



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 11 2007

*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.

Willi L. Martin

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

ATLANTA, JULY 12, 2007

The Court of Appeals passed the following order

Case No. A07D0304

DEPARTMENT OF HUMAN RESOURCES V. DWIGHT TEMPLES ET AL

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

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 12, 2007*



*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 06 2007

A07D0305. TROY RAY BENNETT v. THE STATE.

Troy Ray Bennett, pro se, seeks discretionary review of an order entered on February 9, 2006, denying his “motion to vacate an illegal and unconstitutional sentence, [and/or] motion for reconsideration of that sentence and a motion for new trial.” OCGA § 5-6-35 (d) requires applications for discretionary review to be filed within 30 days of the entry date of the order of which the applicant complains. Bennett did not file his application until May 7, 2007, a date approximately 466 days after the subject order was entered. Furthermore, Bennett is not entitled to an extension pursuant to OCGA § 5-6-39 because that code section does not pertain to applications for discretionary review and is not otherwise applicable. Accordingly, this Court lacks jurisdiction to consider this application and it is hereby ordered DISMISSED.

It appears from the application materials provided that Bennett’s public defender timely moved for a new trial after Bennett’s conviction on October 10, 2005; however, a direct appeal may not have adequately been pursued. Thus, Bennett is informed of the following in accordance with *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995):

You may have the right to an out-of-time appeal, but to obtain such, you must request permission for an out-of-time appeal in the trial court. See *Reese v. State*, 216 Ga. App. 773 (456 SE2d 271) (1995). If the trial court grants your request, you will have 30 days from the filing date of that order to file a notice of appeal referencing your conviction. If the trial court denies your request, you will have 30 days from the filing date

of that order to file a notice of appeal referencing the denial of your request for an out-of-time appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 06 2007

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.

Willie L. Martinez, Clerk.

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

ATLANTA, JUNE 14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0306

H. ROBERT BUCKLER ET AL V. DEKALB COUNTY GEORGIA ET AL

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

70026

05CV99282



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 14 2007

*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. L. Mat... [Signature]

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

ATLANTA, JUNE 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0307
DR. JOHN E. FARRAR, PH.D., V. THE STATE BOARD OF EXAMINERS OF
PSYCHOLOGISTS

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

97026

03CV23086



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 11 2007

*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.

Willie L. Martin

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

ATLANTA, JUNE 26, 2007

The Court of Appeals passed the following order

Case No. A07D0307

DR. JOHN E. FARRAR, PH.D., V. THE STATE BOARD OF EXAMINERS OF
PSYCHOLOGISTS

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 26, 2007*

*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.

Willie L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 16, 2007

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 **S07C1680**

JOHN E. FARRAR v. GEORGIA BOARD OF EXAMINERS OF
PSYCHOLOGISTS

Clerk, Supreme Court of Georgia

Case No. A07D0307

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 24 2007

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 04 2007**

A07D0308. ADDRENNNA GILCHRIST v. DEJUAN GILCHRIST.

Addrenna Gilchrist filed in this Court an application for discretionary appeal from the superior court's order granting Dejuan Gilchrist's motion to vacate or set aside the parties' final judgment and decree of divorce. Because the parties' final judgment of divorce is at issue, the case invokes the subject matter jurisdiction of the Supreme Court conferred by Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Accordingly, this application is TRANSFERRED to the Supreme Court for disposition.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 04 2007

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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. L. Martinez, Clerk.

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

ATLANTA, JUNE 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0309

GERALD C. PITTS V. GRAHAM A. THORPE, ET AL

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

94026

MISC#89



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 21 2007

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 28 2007

A07D0309. GERALD C. PITTS v. GRAHAM A. THORPE et al.

After considering the recently filed motion of Gerald C. Pitts, this Court hereby DENIES said motion.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 28 2007**

*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.*

Willie L. Martinez, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 03, 2007

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 **S07C1582**

GERALD C. PITTS v. GRAHAM A. THORPE et al.

Clerk, Supreme Court of Georgia

Case No. A07D0309

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 24 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA,

JUNE

14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO.

A07D0310

BRITTANY NICHOLE DOUGLAS BY AND THROUGH HER NATURAL AND
LEGAL GUARDIAN AMANDA MUSGROVE V. RICHARD JORDAN BUCHAN
BY AND THROUGH HIS NATURAL AND LEGAL GUARDIAN KEITH BUCHAN

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

92026

2007S010049



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 14 2007

*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 aff'd the day and year last above above written.*

Clerk.

Willie L. Martinez

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

ATLANTA,

JUNE

08, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0311
TIQUAN JEROME WALKER V. THE STATE

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

99026

2006CR004820

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 08 2007



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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 L. Martin

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

ATLANTA, JUNE 20, 2007

The Court of Appeals passed the following order

Case No. A07D0311

TIQUAN JEROME WALKER V. THE STATE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 20, 2007*

*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.

Willie L. Martin

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

ATLANTA, JUNE 20, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0312

ALEX C. HABERSHAM V. THE MACON BIBB COUNTY BOARD OF TAX
ASSESSORS

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

71026

06CV46234



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

JUN 20 2007

*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

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

ATLANTA, JUNE 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0313

GEORGIA DEPARTMENT OF COMMUNITY HEALTH, ET AL V. PEYTON
M. MINK, BY HIS PARENTS AND NEXT FRIENDS MARK C. MINK ET AL

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

95027

06CV110966



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 21 2007

*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

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 10, 2007

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 **S07C1616**

BRUCE T. JONES v. MIKE TABBAROK et al.

Clerk, Supreme Court of Georgia

Case No. A07D0314

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 12 2007

Clerk, Court of Appeals of Georgia

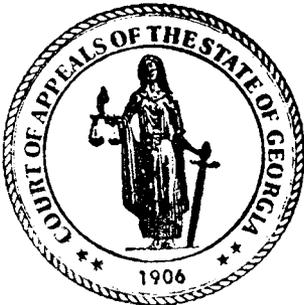
Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 22 2007

A07D0314. BRUCE T. JONES v. MIKE TABBAROK ET AL.

Bruce T. Jones filed this application for discretionary appeal seeking to appeal the trial court's order granting the defendants' motion to dismiss. Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order, as required by Court of Appeals Rule 31 (d). On May 30, 2007, this Court ordered Jones 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" copy of the order has been filed within the time allowed. Therefore, this application is DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 22 2007

*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.*

Willie L. Mack

, Clerk.

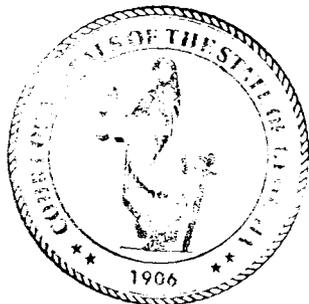
Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 28 2007

A07D0314. BRUCE T. JONES v. MIKE TABBAROK ET AL.

Bruce T. Jones filed this application for discretionary appeal seeking to appeal the trial court's order granting the defendants' motion to dismiss. Although the application included a copy of the order sought to be appealed, it did not contain a stamped "filed" copy of the order, as required by Court of Appeals Rule 31 (d). On May 30, 2007, this Court ordered Jones 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. On June 18, 2007, Jones filed a motion with this Court, seeking to be excused from the requirements of Rule 31 (d). This Court, however, dismissed the application on June 22, 2007, for Jones' failure to comply with this Court's May 30, 2007 order. Jones' motion is accordingly DENIED as moot.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 28 2007

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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.*

Will L. Martin

, Clerk.

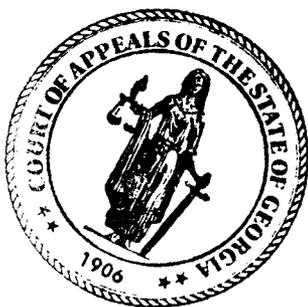
Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 01 2007**

A07D0314. BRUCE T. JONES v. MIKE TABBAROK ET AL.

Bruce T. Jones, *pro se*, filed this application for discretionary appeal seeking to appeal the trial court's order granting the defendants' motion to dismiss. The application was dismissed on June 22, 2007, for Jones' failure to comply with this Court's May 30, 2007 order requiring him to submit a stamped "filed" copy of the order he sought to appeal. On July 5, 2007, Jones filed a motion for reconsideration of that order. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed with the Clerk of Court within ten days from the rendition of the judgment. Jones' motion for reconsideration is thus untimely.¹ This Court accordingly is without jurisdiction to rule on Jones' motion for reconsideration, which is DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 01 2007**

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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.*

Willie L. Martin

, Clerk.

¹We note that Jones also filed on July 5, 2007, a notice of intention to petition for certiorari in the Supreme Court.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 09, 2007

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 **S07C1616**

BRUCE T. JONES v. MIKE TABBAROK et al.

Clerk, Supreme Court of Georgia

Case No. A07D0314

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0315
THE GEORGIA SUBSEQUENT INJURY TRUST FUND V. ASTEN
JOHNSON, INC., ET AL

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

98027

2007CV05665

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 18 2007

*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. E. Mat: [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 11 2007**

A07D0316. MARJORIE RAYE ABBOTT v. RONALD LESTER ABBOTT.

Marjorie Raye Abbott has filed this application for discretionary appeal of an order denying her motion for OCGA § 9-15-14 attorney fees and expenses of litigation. Ms. Abbott's former husband, Ronald Lester Abbott, filed a petition for declaratory judgment and modification in which he sought a declaration regarding the terms of the parties' divorce decree and a modification of the amount of money he is obligated to pay Ms. Abbott under the decree. After the petition was transferred from the Cobb Superior Court, it was assigned Floyd Superior Court case number 06-CV-03806-JFL001. In early 2007, Ms. Abbott filed a motion for OCGA § 9-15-14 attorney fees and expenses of litigation under this case number.

In the instant application, Ms. Abbott has included an order, styled with Floyd Superior Court case number 07-CV-00311-JFL001, denying her motion for OCGA § 9-15-14 attorney fees. From other documents included with the application, it appears that case number 07-CV-00311-JFL001 is a contempt action brought by Ms. Abbott. The application does not include a motion for attorney fees under this case number.

In summary, although in her application Ms. Abbott states that she seeks to appeal the denial of her motion for attorney fees in case number 06-CV-03806-JFL001, the application contains no order denying such a motion in that case. And although the application contains an order under case number 07-CV-00311-JFL001 denying Ms. Abbott's motion for OCGA § 9-15-14 attorney fees, the application contains no such motion in that case. Whether the cases have been consolidated or whether there is some other explanation for this discrepancy is not clear from the application.

Regardless of this discrepancy, we conclude that appellate jurisdiction properly lies in the Supreme Court because the order complained of is ancillary either to Mr. Abbott's unsuccessful attempt to modify certain non-custodial provisions of the parties' divorce decree or to Ms. Abbott's contempt petition against Mr. Abbott. See *Hallman v. Emory University*, 225 Ga. App. 247, 248 (483 SE2d 362) (1997) (physical precedent only); see also *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979) (holding in an analogous context that "an application for contempt to enforce the divorce decree is ancillary to, and an incident of, the divorce action, and jurisdiction to hear an appeal of this nature is in this court"); *Evers v. Evers*, 277 Ga. 132 (587 SE2d 22) (2003). Compare *Kluge v. Renn*, 226 Ga. App. 898 (487 SE2d 391) (1997) (OCGA § 51-7-80 abusive litigation action brought subsequent to underlying divorce case treated as a new action not within the divorce and alimony jurisdiction of the Supreme Court). Therefore, Ms. Abbott's application is TRANSFERRED to the Supreme Court for disposition.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 11 2007

*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. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 11 2007

A07D0317. SHAWN C. MOSLEY v. JOHN CHAPMAN, WARDEN.

Shawn C. Mosley filed this application for discretionary appeal from an order of the superior court denying his "motion to vacate and set aside void judgment" in this habeas corpus case. However, because the Supreme Court has jurisdiction over appeals in habeas corpus cases, Mosley'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*

JUN 11 2007

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hereto affixed the day and year last above written.*



Willie L. Martinez, Clerk.

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

ATLANTA, JUNE 20, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0318
JUNIOR STAMPS V. TIM NELSON

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.

70027

2006V113

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta



JUN 20 2007

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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. L. Martin

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

ATLANTA, JUNE 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0319
ANGEL ALFREDO CINTRON V. THE STATE

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

97027

039227233



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 26 2007

*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. Martinez

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

ATLANTA, JUNE 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0320
CURTIS JASON SHIRLEY V. NICHOLE LEE ABSHIRE

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.

93027

04SUCV562



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 26 2007

*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.

Willie L. Martin

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

ATLANTA, JUNE 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0321

RICHARD E. HERTHNECK ET AL V. GEORGE ATANSAY

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

94027

06V0131



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 21 2007**

*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

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

ATLANTA, JUNE 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0322
MICHAEL T. AUSTIN V. TIMOTHY S. AIKENS

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

92027

07CV664



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 26 2007

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 11 2007

A07D0323. STEPHANIE JANKOWSKI v. CITY OF ATLANTA CIVIL SERVICE BOARD.

Stephanie Jankowski, pro se, filed the instant discretionary application seeking to appeal an April 4, 2007, order entered by the Superior Court of Fulton County. An application for discretionary appeal must be submitted within 30 days of the date the relevant order is entered. OCGA § 5-6-35 (d). Jankowski's application for discretionary appeal was docketed in this Court on June 4, 2007, a date 61 days after the April 4 order of which she complains. Accordingly, Jankowski's application is untimely. Because this Court lacks jurisdiction to consider untimely discretionary applications, the instant application is ordered **DISMISSED**.



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

JUN 11 2007

*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 L. Martinez, Clerk.

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

ATLANTA, JUNE 27, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0324
MARCUS DWAYNE RAINEY V. THE STATE

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

71027

SU05CR102



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 27 2007

*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.

Willie L. Martin

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

ATLANTA, JUNE 22, 2007

The Court of Appeals hereby passes the following order:

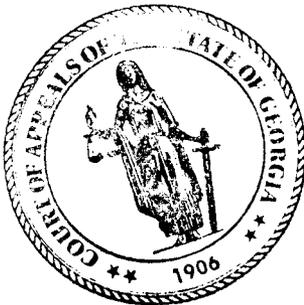
APPLICATION NO. A07D0325

MARCUS MUNDY V. THE STATE

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

95028

2005CR4612



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 22 2007

*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.

A handwritten signature in black ink, appearing to read "William L. Martin".

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

ATLANTA, JULY 02, 2007

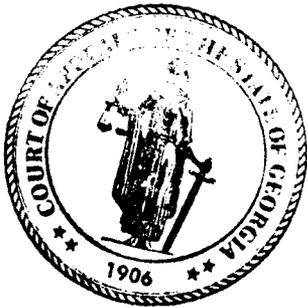
The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0326
SUSAN THOMPSON V. RONALD TOPA

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

96028

05CV0199



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 02 2007

*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.

Willie L. Martin

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

ATLANTA, JUNE 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0327

DONNA WICKES V. JEAN GUTHRIE

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

98028

06A8845



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 26 2007

*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. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 16, 2007

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 **S07C1651**

DONNA WICKES v. JEAN GUTHRIE

Clerk, Supreme Court of Georgia

Case No. A07D0327

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 18 2007

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0328
GLENN MULLENS 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.

90028

CR0300189063



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 26 2007

*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.

Willie L. Martin

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

ATLANTA, JUNE 22, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0329
BAHJI AMELIA ADAMS V. ADAM TODD GEORGE

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

91028

2006CV113802



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 22 2007

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order JUL 17 2007

A07D0329. BAHJI AMELIA ADAMS v. ADAM TODD GEORGE.

Bahji Amelia Adams' seeks reconsideration of this Court's June 22, 2007, order denying her application for discretionary review. Adams' motion for reconsideration is DENIED. Furthermore, Adams' motion for stay of remittitur is hereby DISMISSED as moot.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 17 2007

*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.*

Willie L. Martin, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 30, 2007

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 **S07C1743**

BAHJI AMELIA ADAMS v. ADAM TODD GEORGE

Clerk, Supreme Court of Georgia

Case No. A07D0329

Court of Appeals of Georgia

Notice of Petition for Certiorari

AUG 07 2007

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 06 2007

A07D0330. HINS v. BARNGROVER et al.

On June 20, 2007, this Court granted appellant Connie Hins' application for discretionary appeal of the trial court's denial of supersedeas bond. As of the date of the instant order, no appeal has been filed in this Court pursuant to the granted application.

The appellees have filed a motion to dismiss a portion of the anticipated appeal based upon their contention that the relief that Hins will likely request in her appeal is improper. As no appeal has yet been filed, this motion is premature and, therefore, is dismissed.



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

JUL 06 2007

*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.*

[Handwritten Signature], Clerk.

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

ATLANTA, JULY 03, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0331
SHAWN L. ROBERTS V. THE STATE

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

70028

2002CR422



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 03 2007

*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.

Willie L. Martin

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

ATLANTA, JUN 21 2007

The Court of Appeals hereby passes the following order:

**A07D0332. STEVEN M. MOORE v. CENTER COURT SPORTS & FITNESS,
LLC ET AL.**

On April 5, 2006, the trial court in this case entered final judgment on a jury verdict against plaintiff Steven M. Moore on his claims against the defendants, and in favor of defendant Center Court Sports & Fitness, LLC on its counterclaim against Moore, awarding it \$10,000.00 in damages, plus post-judgment interest and costs. Moore filed a timely motion for new trial from this order, but he also then filed a notice of appeal to this Court. The appeal was docketed in this Court as A07A0623, which was dismissed on October 30, 2006, on the basis that the motion for new trial was pending and thus the notice of appeal was premature.

On May 9, 2007, the trial court dismissed Moore's motion for new trial, and he has now filed this timely application for discretionary appeal, seeking review of the trial court's order of dismissal. Moore apparently filed the application because the damage award to Center Court Sports & Fitness, LLC on its counterclaim was \$10,000.00. See OCGA § 5-6-35 (a) (6). The amount of the judgment, however, includes the principal amount of the verdict plus costs and interest, which raises the total amount of the judgment above \$10,000.00. See *Castleberry's Food Company v. Smith*, 205 Ga. App. 859, 861 (1) (424 SE2d 33) (1992). Moreover, the judgment entered on the jury's verdict also represents a "zero" award on Moore's claim, making the order subject to direct appeal. See generally *Denton v. Hogge*, 208 Ga. App. 734 (1) (431 SE2d 728) (1993). For these two reasons, OCGA § 5-6-35 (a) (6) is inapplicable in this case. Moreover, no other provision of OCGA § 5-6-35 is applicable in this instance.

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

ATLANTA, JULY 03, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0333

CLIPPER PETROLEUM, INC., V. CALDWELL & WATSON, LLP 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 STATE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93028

06GR031343



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 03 2007

*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. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 21 2007

A07D0334. RICHARD J. McLEOD ET AL. v. BROOKS COUNTY.

Richard J. McLeod and Edgar E. McLeod filed this action seeking to enjoin Brooks County from constructing roads on property that the McLeods contend that they own but which the county contends was dedicated to public use. The superior court entered judgment in favor of the county to the extent the roads are shown on recorded plats and in favor of the McLeods to the extent the roads are shown on plats that are not recorded. The McLeods then filed this application for discretionary appeal.

The central issue in this case is whether the property at issue was dedicated to public use by the recording of certain plats. The McLeods assert an enforceable legal title against the county's exercise of dominion over the property. Under Ga. Const. 1993, Art. VI, Sec. VI, Par. III, the Supreme Court has jurisdiction over title to land cases. Since this application challenges a judgment rendered pursuant to a request for equitable relief in a title to land case, the application is TRANSFERRED to the Supreme Court. See *Hobbs v. Ware County*, 247 Ga. 385 (276 SE2d 575) (1981) (subdivision residents sought to enjoin county from opening a street shown on their subdivision plat, but never opened).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 21 2007

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. E. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

JUN 26 2007

The Court of Appeals hereby passes the following order:

A07D0335. CHARLES PROPHITT v. THE STATE.

In the August term of 1996, Charles Prophitt pled guilty to child molestation and received a twenty-year sentence, five years of which were to be served in prison and the remaining 15 years to be served on probation. On November 21, 2002, the trial court revoked Prophitt's remaining years of probation. In 2006, Prophitt sought a direct appeal of the revocation of his probation; however, on August 10, 2006, this Court dismissed the appeal for lack of jurisdiction due to Prophitt's failure to follow the discretionary application procedures outlined in OCGA § 5-6-35. See A06A2385. Prophitt then moved the trial court for an out-of-time appeal which the trial court granted on May 10, 2007.

Relying on the trial court's May 10 order granting his motion for an out-of-time appeal, Prophitt now seeks discretionary review of the revocation of his probation. This Court cannot consider Prophitt's application because an out-of-time discretionary appeal is not authorized by OCGA § 5-6-35, or any other code section. Moreover, this Court has held that a trial court's grant of an out-of-time discretionary appeal is insufficient to authorize the filing of an otherwise untimely application for discretionary review. *Dept. of Offender Rehabilitation v. Meeks*, 165 Ga. App. 269 (299 SE2d 757) (1983). Accordingly, this Court lacks jurisdiction to consider this application and it is ordered DISMISSED.



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

JUN 26 2007

*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.*

Willie L. [Signature]

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 09 2007

A07D0336. HORESH v. DEKINDER, et al.

This court previously issued an order denying an application for appeal filed by plaintiff Joseph Horesh from an order granting the defendants' motion for summary judgment. Application No. A07D0052 (decided October 19, 2006). In Application No. A07D0336, Horesh again seeks an appeal challenging the same order addressed in his prior application. Horesh contends that Application No. A07D0052 was "premature" because the civil case disposition form required under OCGA § 9-11-58 (b) was not entered until May 16, 2007. Assuming without deciding that Horesh's premise is sound, the "interlocutory" order granting the defendants' motion for summary judgment was nevertheless appealable at the time Horesh filed his original application. OCGA § 9-11-56 (h); *Culwell v. Lomas and Nettleton Co.*, 242 Ga. 242, 243 (248 SE2d 641) (1978). Moreover, even if we agreed that this court erred in considering Horesh's prior application on its merits instead of dismissing the application as premature, our decision to deny Horesh's original application remains binding and prevents Horesh from seeking a second bite at the apple in this manner. "[A]ny ruling by the Supreme Court or the Court of Appeals in a case shall be binding in all subsequent proceedings in that case in the lower court and in the Supreme Court or Court of Appeals as the case may be." OCGA § 9-11-60 (h); see *Henderson v. Justice*, 237 Ga. App. 284, 288 (514 SE2d 713) (1999). Because the order complained of here has been previously reviewed by this court and no reversible error warranting a discretionary appeal was then found, the above styled application is hereby *dismissed* for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 09 2007

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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.

Will. L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 27 2007

**A07D0337. GAYRELLA WARD v. MERITAGE MORTGAGE C/O
MCCALLA RAYMER, LLC**

Gayrella Ward filed this application for discretionary appeal seeking review of the state court's order requiring her to pay rent into the registry of the court pursuant to OCGA § 44-7-54. This case originated in the magistrate court and is currently on appeal to the State Court of Cherokee County. Since the case remains pending in the state court, the order Ward seeks to appeal is a non-final order which did not resolve all issues in the case. Ward was accordingly required to follow the procedures for interlocutory review as set forth in OCGA § 5-6-34 (b). *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991); *Gray v. Springs*, 224 Ga. App. 427 (481 SE2d 3) (1997). The discretionary application statute did not relieve Ward from the interlocutory review requirement of obtaining a certificate of immediate review from the state court. Ward's failure to comply with the interlocutory appeal procedures of OCGA § 5-6-34 (b) deprives this Court of jurisdiction to consider her application. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 27 2007**

*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, Clerk.



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

ATLANTA, JULY 06, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0338

KAY SMITH V. NICOLE SMITH

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

95029

03CV2925



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 06 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 09 2007**

A07D0339. CEDRIC DERELL WRIGHT v. THE STATE.

On May 15, 2007, the trial court entered an order revoking Cedric Wright's probation. On June 15, 2007, 31 days later, Wright filed this application for discretionary appeal.

Appeals from orders revoking probation must be made by application filed with the appropriate court within 30 days of the entry of the revocation order. See OCGA § 5-6-35 (a) (5) & (d); *Johnson v. State*, 237 Ga. App. 677 (516 SE2d 539) (1999). Because Wright failed to file an application within 30 days as required by law, his application must be DISMISSED for lack of jurisdiction. *Scriven v. State*, 179 Ga. App. 513 (346 SE2d 906) (1986).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 09 2007

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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.*

Willie L. McIntosh , Clerk.

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

ATLANTA, JULY 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0340
ALL BUSINESS CORPORATION V. JIN CHOI

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

98029

03A3034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 09 2007



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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 L. Mat...

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

ATLANTA, AUGUST 03, 2007

The Court of Appeals passed the following order

Case No. A07D0340

ALL BUSINESS CORPORATION V. JIN CHOI

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



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 03, 2007

*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. Martin

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

ATLANTA, JULY 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0341

GEORGIA DEPARTMENT OF COMMUNITY HEALTH ET AL V. GRACIE
MEDDERS

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.

90029

06CV500



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 10 2007

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

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hereto affixed the day and year last above above written.*

Clerk.

Willie L. Martin

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

ATLANTA, JULY 17, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0342

JOY HOWARD V. THE STATE

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

70029

06CR22449



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 17 2007

*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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 11 2007**

A07D0343. REX E. LILLARD v. KARL A. OWENS

Rex E. Lillard filed this timely application for discretionary appeal seeking review of the Superior Court of Toombs County's order denying his motion to amend pleadings. The order sought to be appealed was entered by the Superior Court following a consent appeal from the probate court. However, appeals of decisions of superior courts reviewing decisions of probate courts are specifically excluded from the discretionary appeal requirements set forth in OCGA § 5-6-35 (a) (1). Thus, Lillard's appeal is directly appealable. Accordingly, this appeal is ordered GRANTED pursuant to OCGA § 5-6-35 (j). Lillard shall have ten days from the date of this order to file a notice of appeal with the superior 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 **JUL 11 2007**

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 L. Marshall

, Clerk.

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

ATLANTA, JULY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0344
TED MILLS ET AL V. MARY ASTUMIAN

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

93029

2004CV80102



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 18 2007

*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

Court of Appeals of the State of Georgia

ATLANTA, AUG 08 2007

The Court of Appeals hereby passes the following order:

A07D0344. TED MILLS et al v. MARY ASTUMIAN.

Upon consideration of the Motion for Reconsideration filed on behalf of appellant Ted Mills in the above styled case, said Motion for Reconsideration is hereby granted and the order of this court issued on July 18, 2007, is hereby vacated. It is further ordered that the Application for Discretionary Appeal filed by Mills is hereby GRANTED.

Appellant Mills 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.

93029

2004CV80102



*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.*

William L. Martin, Clerk.

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

ATLANTA, JULY 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0345
SHELA SPIVEY V. FAIRVIEW PARK HOSPITAL

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

94029

NONE



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 11 2007

*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

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

ATLANTA, JULY 11, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0346
VANCE T. YOUNG, JR. V. THE STATE ET AL

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

92029

2007CV133843



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 11 2007

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the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin

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

ATLANTA, JULY 20, 2007

The Court of Appeals hereby passes the following order:

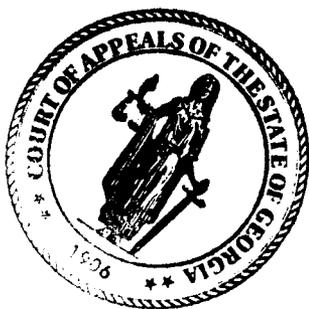
APPLICATION NO. A07D0347

THE RECOVER GROUP, LLC, AS ASSIGNEE OF BELL SOUTH ADVERTISING
& PUBLISHING CORPORATION V. ADVANTAGE HOME BUYER
REPRESENTATIVES, INC., D/B/A ADVANTAGE HOME BUYER REPRESENTAIVES

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

99029

06CV133666



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 2007

*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. L. Martinez

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

ATLANTA, JULY 25, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0348

DAVID W. MCLENDON V. ADVERTISING THAT WORKS 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.

71029

2007CV132140



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 25 2007

*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.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 06 2007**

A07D0349. RICHARD E. PEEBLES v. THE STATE.

Richard E. Peebles filed this application for discretionary appeal seeking to appeal "all final judgments." Peebles contends he filed a notice of appeal on January 12, 2007, but that the superior court failed to follow proper appeal procedure and forward the notice to this Court. The order attached to the application is an Order Modifying Sentence which was filed in the trial court on May 11, 2006. Both a notice of appeal and an application for discretionary appeal must be filed within 30 days after entry of the order sought to be appealed. OCGA §§ 5-6-38; 5-6-35 (d). Even if Peebles did file a notice of appeal on January 12, 2007 with the superior court, that notice of appeal would be untimely. This application, which was filed on June 27, 2007, is also untimely as it was not filed within 30 days after the entry of the order sought to be appealed. Either the proper and timely filing of a notice of appeal or the timely filing of an application for discretionary appeal, if appropriate, is an absolute requirement to confer jurisdiction on this Court. Accordingly, this application is ordered DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 06 2007**

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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.*

Will. L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 19 2007

A07D0350. DR. WILLIAM S. HITCH ET AL. v. JANE BRITT VASARHELYI.

On June 1, 2007, the superior court entered an order dismissing certain defendants in this case, noting that all other defendants in the case had been dismissed, and accordingly ordering the case closed. That same day, the trial court entered separate orders awarding defendant Jane Britt Vasarhelyi \$10,000.00 in attorney fees pursuant to OCGA § 9-15-14 and again ordering the case closed. On June 28, 2007, Plaintiffs Dr. William S. and Lucy M. Hitch filed a notice of appeal from all three of the orders entered on June 1, 2007 – the order of dismissal, the order awarding attorney fees, and the order closing the case.

The Hitches, however, also filed this application for discretionary appeal, seeking review pursuant to OCGA § 5-6-35 (a) (10) of the order awarding attorney fees to Vasarhelyi. Under *Rolleston v. Huie*, 198 Ga. App. 49 (400 SE2d 349) (1990), a judgment awarding attorney's fees and costs of litigation pursuant to OCGA § 9-15-14 may be reviewed on direct appeal, when it is appealed as part of a judgment that is directly appealable, without regard to the discretionary appeal procedures. The Hitches were thus entitled to bring this appeal under OCGA § 5-6-34 (a). This Court would ordinarily grant their application for appeal pursuant to OCGA § 5-6-35 (j), but

because the Hitches have already filed a notice of appeal from the order awarding attorney fees, this application is DISMISSED as duplicative.



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

JUL 19 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, JULY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0351
WILLIE JAMES ATMORE V. THE STATE

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

98030

94CR42176

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 18 2007



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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.

Willie L. Martin

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

ATLANTA, JULY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0352
ELLIS GREEN V. JACKIE SOMMERS ET AL

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

90030

STCV071508



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 18 2007

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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.

A handwritten signature in black ink, appearing to read "W. E. Martin", is written over the printed name of the Clerk.

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

ATLANTA, JULY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0353

EUGENE PARHAM V. SWIFT TRANSPORTATION 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.

91030

2007CV130788



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 18 2007

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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. L. Martin

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

ATLANTA, JULY 30, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0354

MICHAEL DEWBERRY V. ZARTIC, INC., D/B/A ZARTRAN, INC., ET AL

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

70030

07CV01536



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 30 2007

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the minutes of the Court of Appeals of Georgia*

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

William L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 11 2007

A07D0355. GEORGE COLBERT v. THE STATE

George Colbert seeks discretionary review of the trial court's order denying his pro se application for a discretionary appeal and in the alternative a request for a direct out-of-time appeal. The order Colbert seeks to appeal was entered in the trial court on May 16, 2007. This application was filed on July 2, 2007. An application for discretionary appeal must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). Because Colbert filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, this application is ordered DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 11 2007

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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. L. Mat... , Clerk.

Court of Appeals of the State of Georgia

ATLANTA, AUG 01 2007

The Court of Appeals hereby passes the following order:

A07D0356. WACO KEAN v. GINA MARSHALL.

Waco Kean filed this application for discretionary appeal from the superior court's "Final Order Incorporating Child Support Addendum." The order reflects, however, that the mother's motion for attorney fees pursuant to OCGA § 19-6-15 (k) (5) remains pending for decision. "Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." *Thomas v. Douglas County*, 217 Ga. App. 520 (457 SE2d 835) (1995). Because the issue of attorney fees pursuant to OCGA § 19-6-15 (k) (5) remains pending, the judgment for which an appeal is sought is not the final judgment in the case. Kean was thus required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Kean's failure to do so deprives this Court of jurisdiction to consider this application, which is therefore DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 01 2007

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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.*

Willie L. Martin Clerk.

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

ATLANTA, JULY 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0357
FITZROY LEE V. JACQUELINE IRBY

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

94030

2006V1047



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 26 2007

*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. Mat... [Signature]

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

ATLANTA, JULY 18, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0358
STUART GLASS V. CITY OF ATLANTA 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.

92030
E37541



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 18 2007

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 23 2007

**A07D0359. JAMES L. SMITH, SR., ET AL v. MOUNT SALEM MISSIONARY
BAPTIST CHURCH BY ITS BOARD, ET AL.**

James L. Smith, Sr., et al., (collectively, "Smith"), filed this application for discretionary appeal seeking to appeal a "temporary" order issued by the trial court. Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order as required by Court of Appeals Rule 31 (d). On July 6, 2007, this Court ordered Smith 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. Therefore, this application is DISMISSED. Furthermore, the respondents' motion to dismiss the application is DENIED as moot.

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

JUL 23 2007

*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.*

Willie L. Mat... Clerk.



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

ATLANTA, JULY 31, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0360
CITY OF ATLANTA ET AL V. RICHARD HOLDER

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.

71030
2007CV131939



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 31 2007

*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

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

ATLANTA, JULY 27, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0361
JOSEPH HORESH V. SAMUEL T. DEKINDER 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 STATE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99031

05VS088955



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 27 2007

*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 L. Martin

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

ATLANTA, JULY 26, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0362
DARYL BAPTISTE V. DOLORES F. KELLER

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

95031

07A026153



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 26 2007

*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

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

ATLANTA, AUGUST 01, 2007

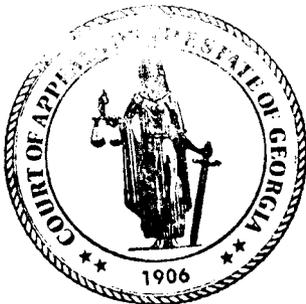
The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0363
PERRY A. STANFIELD V. HEIDI ERNEST

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

96031

04V90



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 01 2007

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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.

Willi L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 27 2007

**A07D0364. JAMES L. SMITH, SR., ET AL v. MOUNT SALEM MISSIONARY
BAPTIST CHURCH, BY ITS BOARD OF DEACONS, ET AL.**

James L. Smith, Sr., et al., (collectively, "Smith"), timely filed this discretionary application seeking review of the trial court's grant of respondents' request for an interlocutory injunction. The grant of an interlocutory injunction is subject to direct appeal. OCGA § 5-6-34 (a) (4). Because the order appealed from is directly appealable, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j). Smith shall have 10 days from the date of this order in which to file a notice of appeal. The clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this Court.



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

JUL 27 2007
*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.*

Willie L. Martin, Clerk.

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

ATLANTA, AUGUST 07, 2007

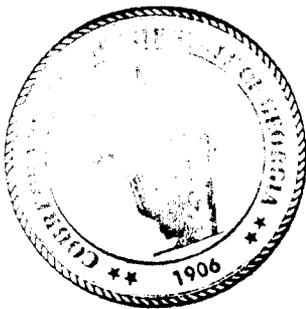
The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0365
SUNIL CORPORATION D/B/A PAT MELL WINGS ETAL V.
COBB COUNTY BOARD OF COMMISSIONERS

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

98031

061562518



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 07 2007

*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 L. Mat... [Signature]

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

ATLANTA, AUGUST 01, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0366
TIMOTHY J. GAMBLE 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.

90031

03CR00218



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 01 2007

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

Will. L. Martin

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

ATLANTA, AUGUST 01, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0367

JERRY JAEGER ET AL V. AMELIA PERRY PARKERSON, 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.

91031

03CV265



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 01 2007

*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.

A handwritten signature in black ink, appearing to read "W. E. Martin", is written over the printed name of the Clerk.

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

ATLANTA, AUGUST 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0368
IVO H. MEIJERINK V. WEBB SUPPLY COMPANY ET AL

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

70031
07CV171



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

AUG 09 2007

*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.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA, AUG 07 2007

The Court of Appeals hereby passes the following order:

A07D0369. THURSTON WALLER v. DON JOHNSON.

Thurston Waller filed this application for discretionary appeal seeking to appeal the trial court's order denying his "Motion for New Hearing." Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order, as required by Court of Appeals Rule 31 (d). On July 18, 2007, this Court ordered Waller 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" copy of the order has been filed within the time allowed. Therefore, this application is DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 07 2007

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Matia, Clerk.

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

ATLANTA, AUGUST 09, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0370

DONALD S. VOILS V. THE STATE

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

93031

00CR15314



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 09 2007

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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. L. Martin

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

ATLANTA, AUGUST 15, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0371
PROFESSIONAL STANDARDS COMMISSION V. ROBERT
LAWRENCE

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

94031

2006S111159



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 15 2007

*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

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

ATLANTA, AUGUST 10, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0372
MELISSA HUBER VAUGHN V. JULIUS HUBER ET AL

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

92031

2006V907



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

AUG 10 2007

*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.

Willie L. Martinez

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

ATLANTA, AUGUST 20, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0373

SRINIVASA VAJHALA KRISHNA, A/K/A KRISHNA VAJHALA SRINIVASA
V. JEEVANA KARKALA KRISHNA

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

71031

06CV282



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 20 2007

*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.

A handwritten signature in black ink, appearing to read "William L. Martinez", is written over the printed name "Clerk.".

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

ATLANTA, SEPTEMBER 11, 2007

The Court of Appeals passed the following order

Case No. A07D0373

SRINIVASA VAJHALA KRISHNA, A/K/A KRISHNA VAJHALA SRINIVASA
V. JEEVANA KARKALA KRISHNA

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 11, 2007*

*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.

Willie L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: September 27, 2007

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 **S08C0162**

SRINIVASA VAJHALA KRISHNA, a/k/a SRINIVASA v. JEEVANA KARKALA
KRISHNA

Clerk, Supreme Court of Georgia

Case No. A07D0373

OCT 01 2007

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, AUGUST 16, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0374
JOHN GORMAN ET AL V. CITY OF SUWANEE, GEORGIA

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

95032

06A070597



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

AUG 16 2007

*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.*

Clerk.

Will L. Matz

Court of Appeals of the State of Georgia

ATLANTA, AUG 01 2007

The Court of Appeals hereby passes the following order:

A07D0375. PAUL STURGEON v. TAMMY T. STURGEON.

On July 23, 2007, Paul Sturgeon, *pro se*, filed an application to this Court, seeking review of the trial court's June 6, 2007 "Final Order on Modification of Child Custody." An application for discretionary appeal must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). Because Sturgeon filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, the application is ordered DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 01 2007

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

[Handwritten Signature] Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 10 2008**

A07D0375. PAUL S'TURGEON v. TAMMY T. S'TURGEON.

Paul S'turgeon filed an application for discretionary appeal to this Court, seeking review of a final order on modification of child support. This Court dismissed the application on August 1, 2007, on the basis that it was untimely. On August 14, 2007, S'turgeon filed a motion for reconsideration, which this Court dismissed on August 21, 2007, on the basis that it was untimely. On March 24, 2008, S'turgeon filed a request for leave to file a second motion for reconsideration. See Court of Appeals Rule 37 (d). The request – filed more than seven months after this Court dismissed his first motion for reconsideration – fails to demonstrate that it should be granted. Thus, the request for leave to file a second motion for reconsideration is **DENIED**.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 10 2008**

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martinez, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, AUG 21 2007

The Court of Appeals hereby passes the following order:

A07D0375. PAUL STURGEON v. TAMMY T. STURGEON.

On August 14, 2007, Paul Sturgeon, *pro se*, filed a motion for reconsideration of this Court's August 1, 2007 order dismissing his application for discretionary appeal on the basis that it was untimely. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed with the Clerk of Court within ten days from the rendition of the judgment. Sturgeon's motion for reconsideration was filed thirteen days after this Court entered the order of dismissal. The motion is thus untimely. This Court accordingly is without jurisdiction to rule on Sturgeon's motion for reconsideration, which is DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 21 2007

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Willie L. Martin, Clerk.

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

ATLANTA, AUGUST 13, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0376
MICHAEL ARROWOOD V. THE STATE

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

98032

04CR109



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

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hereto affixed the day and year last above above written.*

Clerk.

Willie L. Martinez

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

ATLANTA, AUGUST 14, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0377

MATTHEW L. DIXON V. C & A FLOORCOVERINGS INC., ET AL

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

90032

07CI142



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 14 2007

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the minutes of the Court of Appeals of Georgia*

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Clerk.

Willie L. Martinez

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

ATLANTA, AUGUST 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0378

ARVESTER DAVIS V. THE STATE

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

91032

92R105



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 22 2007

*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 L. Mat... [Signature]

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

ATLANTA, AUGUST 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0379

LYNDA GAY, ET AL V. AMERICAN GENERAL INSURANCE CO., ET AL

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

70032

07CD588



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 21 2007

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the minutes of the Court of Appeals of Georgia*

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Clerk.

Willi L. Martin

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

ATLANTA, AUGUST 10, 2007

The Court of Appeals hereby passes the following order:

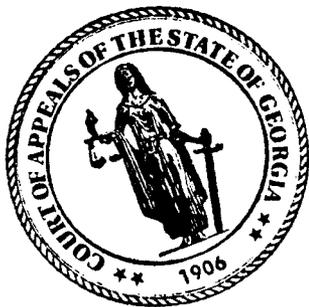
APPLICATION NO. A07D0380

JAMES THOMAS LOKEY V. GEORGIA DEPARTMENT OF DRIVER
SERVICES

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.

97032

060519



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 10 2007

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Clerk.
Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA, AUG 15 2007

The Court of Appeals hereby passes the following order:

A07D0382. LEROY BANKS, III v. THE STATE.

On July 25, 2007, Leroy Banks, III filed an application for discretionary appeal but did not attach a copy of the order or judgment that he seeks to appeal. OCGA § 5-6-35 (c), however, requires an application for discretionary appeal to include a copy of the order or judgment being appealed. Because it is essential that a copy of the order or judgment sought to be reviewed be included in the record and Banks failed to include it, this application is ordered DISMISSED.

Assuming arguendo that the judgment that Banks wants to appeal is, in fact, a judgment of conviction entered on July 17, 2007, Banks is required to file a notice of appeal in the trial court, not in this Court, within 30 days of that date. In the event that Banks is unable to comply with that deadline, he may want to petition the trial court for permission to file an out-of-time appeal. If the trial court enters an order granting the request, Banks will have 30 days from the filing date of that order to file a notice of appeal in the trial court that references the conviction. If the trial court enters an order denying the request for an out-of-time appeal, Banks will have 30 days from the filing date of that order to file a notice of appeal referencing the denial of his request for an out-of-time appeal.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 15 2007

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.

Willie L. McIntosh, Clerk.

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

ATLANTA, SEPTEMBER 25, 2007

The Court of Appeals passed the following order

Case No. A07D0382

LEROY BANKS III V. THE STATE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 25, 2007*

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA, AUG 1 0 2007

The Court of Appeals hereby passes the following order:

A07D0383. GEORGE IVEY v. SHANITA L. PEARSON.

On July 26, 2007, George Ivey filed this application for discretionary appeal of a June 20, 2007 order denying his motion to set aside a judgment of the magistrate court. Ivey asserts that the court failed to mail him a copy of the order. Regardless of the reason given, this court is without jurisdiction to consider an untimely appeal or application for appeal. See generally *Atlantic-Canadian Corp. v. Hammer, Siler, George Assoc., Inc.*, 167 Ga. App. 257-258 (1) (306 SE2d 22) (1983). If Ivey's appeal rights have been frustrated due to clerical error in the superior court, his remedy is to seek to have the order set aside and re-entered in the manner described in *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). Because this court lacks jurisdiction to consider Ivey's application on the merits at this time, it is *dismissed* for lack of jurisdiction.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 1 0 2007

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Willie L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, AUG 15 2007

The Court of Appeals hereby passes the following order:

A07D0384. MICHAEL J. MEYER v. BETT ANNE MCBRIDE.

Michael J. Meyer seeks discretionary review of a June 28, 2007, order granting respondent Bett Anne McBride's motion to set aside the final judgment in this legitimation action and custody dispute. In the absence of an accompanying dismissal of the action, an order granting a motion to set aside a final judgment is interlocutory and subject to the procedures outlined in OCGA § 5-6-34 (b). See *Guy v. Roberson*, 214 Ga. App. 391 (448 SE2d 60) (1994). Although domestic relations matters, such as this one, are typically discretionary in nature, where both interlocutory and discretionary application procedures may apply, the applicant must follow the interlocutory procedures outlined in OCGA § 5-6-34 (b). See *Scruggs v. Ga. Dept. Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Thus, Meyer was required to obtain a certificate of immediate review from the trial court prior to filing his application. *Id.* Because Meyer failed to follow the procedures provided in OCGA § 5-6-34 (b), this Court lacks jurisdiction to consider his application, and it is therefore DISMISSED. *Guy*, 214 Ga. App. at 391. Furthermore, respondent's motion to dismiss Meyer's application is hereby DENIED as moot.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 15 2007

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will L. Matz, Clerk.

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

ATLANTA, AUGUST 27, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0385
BELGIN ONEN V. STEPHEN BURD ET AL

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

95033

061052635



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 27 2007**

*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

Court of Appeals of the State of Georgia

ATLANTA,

AUG 08 2007

The Court of Appeals hereby passes the following order:

A07D0386. GERALD HINRICK MILLER v. THE STATE.

Gerald Hinrick Miller, pro se, filed this application for discretionary appeal seeking review of the trial court's order denying his motion to set aside judgment. OCGA § 5-6-35 (d) requires the filing of an application with the Clerk of this Court "within 30 days of the entry of the order, decision, or judgment complained of." The order Miller seeks to appeal was entered in the trial court on April 11, 2007. This application was filed on July 25, 2007, more than 30 days after entry of the order sought to be appealed. Thus, this application is untimely. Miller's failure to comply with the discretionary appeal requirements deprives this Court of jurisdiction to consider his application. See *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000). Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 08 2007

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Willie L. Martin, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: September 13, 2007

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 **S08C0082**

GERALD HINRICK MILLER v. THE STATE

Clerk, Supreme Court of Georgia

SEP 14 2007

Case No. A07D0386

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA, AUG 16 2007

The Court of Appeals hereby passes the following order:

A07D0387. JERRY LARRY COLLIER v. CVS PHARMACY ET AL.

Jerry Larry Collier filed a complaint against CVS Pharmacy and others, seeking damages for false arrest. The state court denied filing of the complaint pursuant to OCGA § 9-15-2 (d), noting that “[a]n order denying filing shall be appealable in the same manner as an order dismissing an action.” The state court, however, apparently refused to stamp the order “filed” because the complaint had been denied filing.

Collier filed a discretionary application in this Court, seeking review of the state court’s order denying filing of the case. On July 30, 2007, the Clerk of this Court sent Collier a letter warning him that he must submit a stamped “filed” copy of the order he sought to appeal within ten days or face dismissal of his application. Collier filed a motion for an extension of time to file the stamped “filed” copy of the order. In the meantime, however, the state court stamped the order “filed” on August 2, 2007, and Collier timely submitted a copy of this order to this Court. Collier’s motion for an extension is accordingly DENIED as MOOT.

A order denying filing under OCGA § 9-15-2 (d) is not of itself subject to the discretionary appeal procedure requirements of OCGA § 5-6-35. Moreover, no provision of subsection (a) of OCGA § 5-6-35 is applicable to this case. This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. Because Collier’s appeal does not require a discretionary application and his application was timely, this application is GRANTED as required under OCGA § 5-6-35 (j). Collier shall have ten days from

the date of this order to file a notice of appeal with the DeKalb State Court, which 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 **AUG 16 2007**

*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. Martin , Clerk.

Court of Appeals of the State of Georgia

ATLANTA, AUG 14 2007

The Court of Appeals hereby passes the following order:

A07D0388. MICHAEL WILBURN v. THE STATE.

On May 7, 2007, the trial court denied Michael Wilburn's extraordinary motion for new trial. Then, on June 11, 2007, the trial court denied Wilburn's motion for reconsideration of that decision. On July 30, 2007, Wilburn filed a *pro se* application for discretionary appeal.

OCGA § 5-6-35 (d) requires an application for discretionary appeal to be filed with 30 days of the date of the entry of the appealable order sought to be reviewed. The denial of a motion for reconsideration is not an appealable order and does not extend the period of time for filing an application for discretionary appeal. See *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991); *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000); *Simmons v. State*, 228 Ga. App. 470 (491 SE2d 908); *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).

Because Wilburn failed to file his application for discretionary appeal within 30 days of May 7, 2007, this application is untimely. Accordingly, this Court lacks jurisdiction over the application and it is ordered DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 14 2007**

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, AUGUST 24, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0389
ROBERT M. FIELDS V. BILLY F. LANIER

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.

91033

1B06CV071

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 2007

*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.

Willie L. Martinez



Court of Appeals of the State of Georgia

ATLANTA, AUG 21 2007

The Court of Appeals hereby passes the following order:

A07D0390. ROBERTO BAEZ v. CARLOS BYRD ET AL.

Roberto Baez filed this discretionary application seeking review of the trial court's order denying his "Motion to Proceed on Appeal In Forma Pauperis." Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order as required by Court of Appeals Rule 31 (d). On August 2, 2007, this Court ordered Baez 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" copy of the order has been filed within the additional time allowed. Therefore, this application is **DISMISSED**. Furthermore, Baez's motion for continuance is **DENIED** as moot.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 21 2007

*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.*

Willie L. Mat... , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 06 2007**

A07D0390. ROBERTO BAEZ v. CARLOS BYRD ET AL.

Roberto Baez filed an application for discretionary review on July 31, 2007. At that time, the only order attached to the application was an unstamped order denying Baez's motion to proceed informam pauperis. Because the application failed to comply with Court of Appeals Rule 31 (d), this Court issued an order on August 2, 2007, directing Baez to submit a stamped "filed" copy of the order he was seeking to appeal within ten days. Baez failed to comply with the August 2 order and, therefore, this Court dismissed his application on August 21, 2007.

Baez now seeks reconsideration of the dismissal of his application. Baez, however, has failed to show that he complied with this Court's August 2 order. In fact, Baez did not submit any stamped "filed" order to this Court until 20 days later on August 22, 2007, after his case had already been dismissed for noncompliance with Rule 31 (d). Thus, this Court's dismissal of the application was proper.

Even if Baez had timely complied with the Court's August 2 order, the application would still be dismissed. Specifically, the order Baez submitted on August 22 plainly shows that it was stamped "filed" on May 31, 2007. Because Baez did not file his application for discretionary review until 60 days after the May 31 order was entered, Baez's attempt to appeal that order would be untimely. OCGA § 5-6-35 (d).

In the absence of any basis for sustaining Baez's application for discretionary review, it was properly dismissed. Accordingly, Baez's motion for reconsideration is DENIED.



Court of Appeals of the State of Georgia **SEP 06 2007**
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.

Willie L. Mack
Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: September 26, 2007

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 **S08C0153**

ROBERTO BAEZ v. CARLOS BYRD et al.

Clerk, Supreme Court of Georgia

Case No. A07D0390

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

SEP 28 2007 Sent To
S.C.

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA, AUG 23 2007

The Court of Appeals hereby passes the following order:

A07D0391. TOUCHSTONE v. RUST, f/k/a Touchstone.

James Scott Touchstone seeks an appeal from an order disposing of respondent's petition for contempt due to his failure to pay alimony as required under the separation agreement incorporated into the parties' final divorce decree, and also disposing of Touchstone's complaint to terminate alimony. Because the order complained of directly addresses enforcement and/or modification of non-custodial provisions of the parties' divorce decree, Touchstone's application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6); *White v. White*, 274 Ga. 884, 885 (2) (561 SE2d 801) (2002).



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 23 2007

*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.*

Willie L. Martin, Clerk.

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

ATLANTA, AUGUST 24, 2007

The Court of Appeals hereby passes the following order:

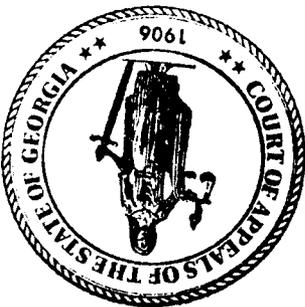
APPLICATION NO. A07D0392

INDUSTRIAL STEEL & MACHINERY, INC., V. LUTHER ENNIS

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

93033

2007CV0152



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 2007

*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

Court of Appeals of the State of Georgia

ATLANTA, AUG 15 2007

The Court of Appeals hereby passes the following order:

A07D0393. JOHN D. SHAW v. THE STATE.

John D. Shaw, *pro se*, filed this application for discretionary appeal, seeking review of the trial court's June 22, 2007 order denying his motion to set aside void judgment. The application was docketed in this Court on August 1, 2007, forty days after the trial court's order was entered.¹ An application for discretionary appeal must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). Because Shaw filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, the application is ordered DISMISSED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* AUG 15 2007

*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. Martinez, Clerk.

¹Shaw initially submitted the application on July 16, 2007, but failed to include a stamped "filed" copy of the order he seeks to appeal. Accordingly, the Clerk of this Court returned the application to him on July 18, 2007, with instructions to resubmit it with the stamped "filed" copy of the order, if he wished to continue to pursue his appeal.

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

ATLANTA, AUGUST 15, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0394
DENITA K. JONES V. NOLAN D. JONES

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.

92033

061448134



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 15 2007

*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

Court of Appeals of the State of Georgia

ATLANTA, September 5, 2007

The Court of Appeals hereby passes the following order:

A07D0395. LENNOX BINNS v. MALINDA FAIRNOT.

Lennox Binns' motion to vacate and re-enter the order granting his application for discretionary appeal is **GRANTED**. Binns 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*

SEP 05 2007

*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. Martin, Clerk.



L/C: 07V0064

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

ATLANTA, AUGUST 21, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0396
TYRANIUS SIMMONS ET AL V. SHAUNDA LESTER WILLIAMS

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.

71033

20067724



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 21 2007

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the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Matia

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

ATLANTA, AUGUST 30, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0397
DAVID TIMOTHY MOORE V. THE STATE

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

95034

A90108



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 30 2007*

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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.

Willie L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: September 06, 2007

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 **S08C0055**

DAVID TIMOTHY MOORE v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A07D0397

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

SEP 13 2007 - sent to S.C.

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

ATLANTA, SEPTEMBER 04, 2007

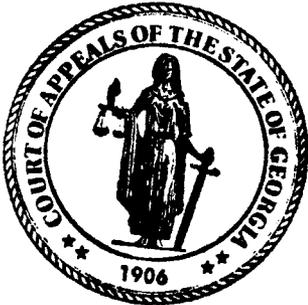
The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0398
JUSTIN FORREST EDWARDS V. THE STATE

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

96034

03B24973



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 04 2007

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the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above above written.*

Clerk.

Willi L. Martin

L/C: 03b24973

Court of Appeals of the State of Georgia

ATLANTA, AUG 16 2007

The Court of Appeals hereby passes the following order:

A07D0399. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL ANDRE JOHNSON.

A07D0400. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL JESSICA SHELTON.

On June 26, 2007, the Superior Court of Gwinnett County entered two orders of contempt for failure to pay child support against Babatope James Adeoya – one in the case of *Georgia Department of Human Resources, ex rel Andre Johnson v. Babatope James Adeoya*, and the other in the case of *Georgia Department of Human Resources, ex rel Jessica Shelton v. Babatope James Adeoya*. On August 8, 2007, Adeoya filed two separate applications for discretionary appeal in this Court from these orders, docketed as applications A07D0399 and A07D0400, respectively.

An application for discretionary appeal, however, must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Adeoya filed these applications more than thirty days after entry of the orders he seeks to appeal, the applications are untimely. This Court lacks jurisdiction to consider untimely applications. The applications are therefore DISMISSED.



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

AUG 16 2007

*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, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, **OCT 23 2007**

The Court of Appeals hereby passes the following order:

A07D0399. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL ANDRE JOHNSON;
A07D0400. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL JESSICA SHELTON.

Babatope James Adeoya has filed motions for reconsideration of this Court's August 16, 2007 order dismissing the applications on the basis that they were untimely. Upon review, it appears that the applications were in fact timely filed. Therefore, the motions for reconsideration are GRANTED, this Court's August 16, 2007 order dismissing the applications is VACATED, and discretionary applications A07D00399 and A07D0400 are REINSTATED. Upon consideration of the applications for discretionary appeal on the merits, the applications are DENIED.



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

OCT 23 2007

*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. Martin

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, AUG 16 2007

The Court of Appeals hereby passes the following order:

A07D0399. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL ANDRE JOHNSON.

A07D0400. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL JESSICA SHELTON.

On June 26, 2007, the Superior Court of Gwinnett County entered two orders of contempt for failure to pay child support against Babatope James Adeoya – one in the case of *Georgia Department of Human Resources, ex rel Andre Johnson v. Babatope James Adeoya*, and the other in the case of *Georgia Department of Human Resources, ex rel Jessica Shelton v. Babatope James Adeoya*. On August 8, 2007, Adeoya filed two separate applications for discretionary appeal in this Court from these orders, docketed as applications A07D0399 and A07D0400, respectively.

An application for discretionary appeal, however, must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Adeoya filed these applications more than thirty days after entry of the orders he seeks to appeal, the applications are untimely. This Court lacks jurisdiction to consider untimely applications. The applications are therefore DISMISSED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* AUG 16 2007

*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, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, OCT 23 2007

The Court of Appeals hereby passes the following order:

A07D0399. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL ANDRE JOHNSON;
A07D0400. BABATOPE JAMES ADEOYA v. GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX REL JESSICA SHELTON.

Babatope James Adeoya has filed motions for reconsideration of this Court's August 16, 2007 order dismissing the applications on the basis that they were untimely. Upon review, it appears that the applications were in fact timely filed. Therefore, the motions for reconsideration are GRANTED, this Court's August 16, 2007 order dismissing the applications is VACATED, and discretionary applications A07D00399 and A07D0400 are REINSTATED. Upon consideration of the applications for discretionary appeal on the merits, the applications are DENIED.



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

OCT 23 2007

*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.*

Willie L. Martin

, Clerk.

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

ATLANTA, SEPTEMBER 05, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0401
PUSHPALATHA BASKARAN V. HARTFORD INSURANCE CO. OF
MIDWEST ET AL

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

90034

07A37368



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 05 2007

*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.

Willie L. Martinez

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

ATLANTA, AUGUST 30, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0402
IRA CHRISTOPHER JACKSON V. THE STATE

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

91034

02CR54330



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 30 2007

*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

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

ATLANTA,

SEPTEMBER 05, 2007

The Court of Appeals hereby passes the following order:

APPLICATION NO. A07D0403

JOE JOHNSON V. THE STATE

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

70034

95R298

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 05 2007

*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.

Willie L. Martin



L/C: 95R298

Court of Appeals of the State of Georgia

ATLANTA, SEP 06 2007

The Court of Appeals hereby passes the following order:

A07D0404. PETERSON v. THE STATE.

Inmate Vincent Peterson filed an application for appeal on August 10, 2007, referencing an order dated June 25, 2007, denying his extraordinary motion for new trial. This court ordered Peterson to supplement his application with a stamped "filed" copy of that order. Peterson responded by moving for an extension of time in order to obtain a stamped "filed" copy of the order from the trial court.

Because Peterson pled guilty and there was no trial, he lacked standing to seek a new trial. *Barber v. State*, 231 Ga. App. 176 (1) (498 SE2d 758) (1998). Moreover, due to the passage of time, Peterson's extraordinary motion for new trial could not be treated by the trial court as one to withdraw his guilty plea. Compare *Barber*, supra ("motion for new trial" filed during same term of court in which guilty plea is entered may be treated as a motion to withdraw the plea). Since the trial court lacked any proper basis to consider the merits of Peterson's extraordinary motion for new trial, his application for appeal from the denial of the motion is hereby *dismissed* for lack of jurisdiction. Peterson's motion for an extension of time to supplement his application is *dismissed* as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 06 2007

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the minutes of the Court of Appeals of Georgia.*

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Willie L. Martinez, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, AUG 23 2007

The Court of Appeals hereby passes the following order:

A07D0405. ERNEST LEON BRYANT v. THE STATE.

On August 13, 2007, Ernest Leon Bryant filed this application for discretionary appeal from the superior court's July 26, 2007 order denying his motion for reconsideration of its May 8, 2007 order denying Bryant's extraordinary motion for new trial. This Court, however, does not have jurisdiction to consider the merits of this application. An application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). A motion for reconsideration does not extend the time for filing a discretionary application. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Further, a denial of a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Here, the trial court's order denying Bryant's extraordinary motion for new trial – the order properly appealed from – was entered 97 days prior to the date this application was filed. Because the application is untimely, this Court lacks jurisdiction to consider it. For this reason, the application is ordered DISMISSED.



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

AUG 23 2007
*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.*

Willie L. Martin, Clerk.

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

ATLANTA, SEPTEMBER 11, 2007

The Court of Appeals passed the following order

Case No. A07D0405

ERNEST LEON BRYANT V. THE STATE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 11, 2007*

*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.*

Wilk. L. Mat. Jr.
Clerk.