Court of Appeals
of the State of Georgia

ATLANTA, September 04, 2012

The Court of Appeals hereby passes the following order

A13D0001. DONG AN CHO v. MOUNTAIN SWEET WATER 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.

LC NUMBERS:

12A04033

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 04, 2012.

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

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

Hally K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 04, 2012

The Court of Appeals hereby passes the following order

A13D0002. CARRIER 411 SERVICES, INC., v. INSIGHT TECHNOLOGY, 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.

LC NUMBERS:

10GC11680

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 04, 2012.

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

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

Kelly K. O. Lamar , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, September 11, 2012

The Court of Appeals hereby passes the following order

A13D0003. SAMUEL BRANTLEY v. SHIV SUNKER, INC.

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

LC NUMBERS:

CV20090265

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 11, 2012.

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

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

Holly K. O. Pearson , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 09, 2012

The Court of Appeals hereby passes the following order:

A13D0004. FRANKLIN L. WILLIAMS v. MARTIN H. EAVES et al.

We dismissed as untimely Franklin L. Williams's application for discretionary appeal from an order that had been entered four years before. Williams now seeks reconsideration, claiming that the court failed to timely send him a signed, file-stamped copy of the order.

The trial court was required to provide Williams notice of its ruling. See OCGA § 15-6-21 (c); *Miranda v. Stewart*, 312 Ga. App. 290, 292 (718 SE2d 123) (2011). If Williams's right to seek appellate review was frustrated due to the trial court's failure to send him a copy of the order, his remedy is to petition the trial court to vacate and re-enter the order as a means of correcting the problem. See id.; *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). The re-entry of the order will begin anew the time for seeking appellate review. See *Cambron*, supra.

We, however, lack jurisdiction to consider an untimely application for appeal. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith"). Williams's motion for reconsideration is therefore DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/09/2012

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

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

Holly K. O. Loarca, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 09, 2012

The Court of Appeals hereby passes the following order

A13D0004. FRANKLIN L. WILLIAMS v. MARTIN H. EAVES et al .

The APPELLANT'S Amended Motion for Reconsideration in the above-styled case is hereby DENIED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 09, 2012.

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

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

Holly K. O. Pearson , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order:

A13D0005. IN RE: ESTATE OF JOHN ASA ZACHERY, DECEASED.

John Asa Zachery, Jr. and Tiffaney Zachery filed an application for discretionary appeal from the trial court's order denying their motion to recuse. No final order has been entered in the case.

"Denials of motions to recuse are interlocutory in nature. An appeal of such an order requires compliance with the interlocutory appeal provisions of OCGA § 5-6-34 (b)," including obtaining a certificate of immediate review within ten days of the order sought to be appealed. *Ellis v. Stanford*, 256 Ga. App. 294, 295 (2) (568 SE2d 157) (2002); see also *Warringer v. Warringer*, 204 Ga. App. 86 (418 SE2d 446) (1992). The applicants' failure to follow the interlocutory appeal procedure deprives us of jurisdiction over this application, which is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/12/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 19, 2012

The Court of Appeals hereby passes the following order

A13D0006. RYAN WELLINGTON JACKSON v. CITY OF FOREST PARK .

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.

LC NUMBERS:

none

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 19, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 19, 2012

The Court of Appeals hereby passes the following order

A13D0007. ALEXANDRA K. BLAIR v. CITY OF FOREST PARK.

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.

LC NUMBERS:

none

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 19, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 19, 2012

The Court of Appeals hereby passes the following order

A13D0008. CHRISTOPHER A. BUTLER v. CITY OF FOREST PARK.

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.

LC NUMBERS:

none

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 19, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order

A13D0009. KEVIN A. WILLIAMS v. UNITED COMMUNITY BANK.

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.

LC NUMBERS:

2010SUCV563

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 12, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

rt of Appeals
of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order

A13D0010. ARDEST BRYANT v. THE STATE.

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

LC NUMBERS:

1993CR1413 1993CR1414 1993CR1415 1993CR1416 2002CR887

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 12, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order

A13D0011. IN THE INTEREST OF: A. F., B. F., D. F., AND K. F., CHILDREN (MOTHER) .

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

LC NUMBERS:

12JV00408

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 12, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 14, 2012

The Court of Appeals hereby passes the following order

A13D0012. IN THE INTEREST OF: D. B., A CHILD (MOTHER).

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

LC NUMBERS:

12JV272

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 14, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order

A13D0013. DANIEL ERIC COBBLE v. STANLEY WILLIAMS, WARDEN, et al .

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

LC NUMBERS:

2012NH3

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 12, 2012.

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

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

Holly K. O. Sparrow , *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: October 03, 2012

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 **S13C0139**.

DANIEL ERIC COBBLE v. STANLEY WILLIAMS, WARDEN et al.

Clerk, Supreme Court of Georgia

Case No. A13D0013
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0139 Atlanta, January 22, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DANIEL ERIC COBBLE v. STANLEY WILLIAMS, WARDEN et al.

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0013

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 08, 2013

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.

Sue C. Rutter, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order:

A13D0014. MARCI MIRONOV v. JEFF MIRONOV.

Marci Mironov and Jeff Mironov divorced in 2006. Marci Mironov filed a complaint for modification of alimony and child support in 2010. The parties entered a Consent Final Order, which upwardly modified the child support award. Both parties requested attorney fees, pursuant to OCGA § 19-6-15 (k) (5). The trial court concluded that each party should be responsible for their own attorney fees. Marci Mironov seeks discretionary review of the trial court's order.

The sole and underlying issue involved in this application is the order on attorney fees, which is based upon the determination of which party prevailed in the child support modification action. Under the Georgia Constitution of 1983, Art VI, Sec. I, Par. III (6), the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." *Schmidt v. Schmidt*, 270 Ga. 461, 462 (2) (510 SE2d 810) (1999). In Georgia, child support is a form of alimony. *Smith v. Smith*, 254 Ga. 450, 451 (330 SE2d 706) (1985) (the purpose of alimony is to provide *support* for the needy spouse and minor children). Because the attorney fees issue is ancillary to the child support award, this court lacks appellate jurisdiction over this application. See *Haley v. Haley*, 282 Ga. 204 (647 SE2d 10) (2007); *Keeler v. Keeler*, 263 Ga. 151 (430 SE2d 5) (1993). Accordingly, this application is TRANSFERRED to the Supreme Court of Georgia.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/12/2012

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 06, 201

The Court of Appeals hereby passes the following order:

A13D0015. LORNE VERNAE STONE v. STATE OF GEORGIA.

Prison inmate Lorne Stone has filed an application for discretionary review of the trial court's order denying him permission to file a mandamus action as a pauper. The Supreme Court of Georgia has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006). Accordingly, this case is TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/06/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loma , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 19, 2012

The Court of Appeals hereby passes the following order

A13D0016. DEREK LEROY MCSMITH v. THE STATE.

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

LC NUMBERS:

2010CR03390

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 19, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order

A13D0017. TAMEKA EVANS v. SHERIFF KEMUEL KIMBROUGH CLAYTON COUNTY, GEORGIA., et al .

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

LC NUMBERS:

2011CV02872

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 12, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 10, 201

The Court of Appeals hereby passes the following order:

A13D0018. JOEY JONES v. TERRI MULLIS, et al.

On July 16, 2012, the superior court denied the filing of Joey Jones's pro se complaint on the ground that it stated no justiciable issue of fact or law. See OCGA § 9-15-2 (d). Jones, who is incarcerated, filed an application for discretionary appeal on August 22, 2012, seeking to appeal this ruling.[1]

A discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Because Jones filed his application 37 days after the trial court entered its order, the application is untimely and is therefore DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/10/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. A. Lamar, *Clerk.*

[1] Jones attempted to file his application earlier, but he failed to include the order he sought to appeal and thus the application was returned to him. See Court of Appeals Rule 31 (e) (discretionary applications must contain stamped "filed" copy of order from which appeal is sought).

Court of Appeals
of the State of Georgia

ATLANTA, September 13, 2012

The Court of Appeals hereby passes the following order:

A13D0019. CHRISTOPHER M. HUNT v. ROBERT J. HUNTER, et al.

Christopher Hunt, plaintiff in the civil action below, seeks review of the trial court's June 22, 2012, order granting the defendants' motion to dismiss.[1, 2]

From the limited materials submitted with the application, it appears that the June 22 order is subject to direct appeal as the final judgment in the case. See OCGA § 5-6-34 (a) (1). This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Hunt's application is hereby GRANTED. He shall have ten days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

---

[1] Hunt filed his application in the Supreme Court, which transferred the matter here.

[2] Hunt's filing was construed as an application because it was filed in the appellate court rather than in the trial court. Applications are filed in the appellate court, while notices of appeal are filed in the trial court. Compare OCGA § 5-6-35 (d) and OCGA § 5-6-37. In his "Motion to Correct . . ." Hunt clarified that he seeks a direct appeal from the trial court's June 22 order.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/13/2012

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 17, 2012

The Court of Appeals hereby passes the following order:

A13D0019. CHRISTOPHER M. HUNT v. ROBERT J. HUNTER, et al.

Christopher Hunt, applicant in this application for discretionary review, has filed a "Motion to Correct Notice of Appeal to be Filed as a Direct Appeal Instead of Discretionary." That motion is DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/17/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 13, 2012

The Court of Appeals hereby passes the following order

A13D0020. FACILITIES SERVICES GROUP OF GEORGIA,LLC., v. AUTOMATED LOGIC CONTRACTING SERVICES, INC., d/b/a AUTOMATED-LOGIC, GEORGIA .

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

LC NUMBERS:

12A110

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 13, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 12, 2012

The Court of Appeals hereby passes the following order:

A13D0021. KELVIN BEARD v. THE STATE.

Kelvin Beard pled guilty to possession with intent to distribute marijuana in 1998. On March 23, 2012, the trial court denied Beard's Petition for Writ of Error Coram Nobis. Beard filed a petition to resubmit his petition, which the trial court denied on April 30, 2012. Beard seeks discretionary review of the trial court's orders. We lack jurisdiction.

Beard filed his application for discretionary appeal on July 19, 2012.[1] A discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Because Beard filed his application118 days after entry of the trial court's first order and 80 days after the entry of the second order,[2] the application is untimely and is therefore DISMISSED for lack of jurisdiction.

---

[1] Beard filed his application in the Supreme Court, which transferred it to this Court.

[2] Beard's second petition was essentially a motion for reconsideration, and orders denying motions for reconsideration are not appealable in their own right. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/12/2012

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

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

Holly K. O. Lanoue, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 21, 2012

The Court of Appeals hereby passes the following order

A13D0021. KELVIN BEARD v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 21, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 21, 2012

The Court of Appeals hereby passes the following order

A13D0022. THEODORE SANDLER et al v. ALLIED INTERSTATE, INC.

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

LC NUMBERS:

09VS154236

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 21, 2012.

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

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

Kelly K. O. Connor , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 20, 2012

The Court of Appeals hereby passes the following order

A13D0023. MICHAEL D. MCKINNEY v. THE STATE.

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

LC NUMBERS:

2009R0107

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 20, 2012.

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

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

Kelly K. O. Connor , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 18, 2012

The Court of Appeals hereby passes the following order

A13D0024. IN THE INTEREST OF: T. L. D., S. P. R., R. E. R., R. S. R., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1200256 1200257 1200258 1200259 1200164 1200165 1200166 1200167

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 18, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 26, 2012

The Court of Appeals hereby passes the following order

A13D0025. RICHARD FOOTE v. FIELDALE FARMS CORPORATION.

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

LC NUMBERS:

12SUCV449

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 26, 2012.

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

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

Kelly K. O. Spencer , Clerk.

Court of Appeals of the State of Georgia

ATLANTA, September 07, 201

The Court of Appeals hereby passes the following order:

A13D0026. TERESA STANLEY v. CLAYTON COUNTY BOARD OF EDUCATION, et al.

Teresa Stanley filed this application for discretionary appeal seeking to challenge the trial court's order denying and dismissing her mandamus action. The Supreme Court, however, has exclusive appellate jurisdiction over all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) ("'[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.'"). Accordingly, this case is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/07/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, September 21, 2012

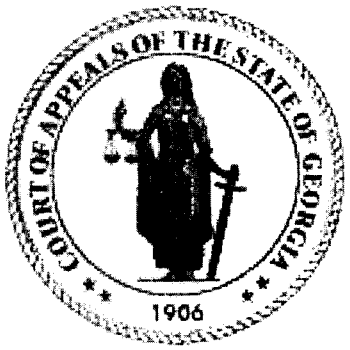
The Court of Appeals hereby passes the following order

A13D0027. KENNESTONE HOSPITAL, INC v. NORTHSIDE HOSPITAL, 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.

LC NUMBERS:

2012CV211568



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 21, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 21, 2012

The Court of Appeals hereby passes the following order

A13D0028. GEORGIA DEPARTMENT OF COMMUNITY HEALTH et al v. NORTHSIDE HOSPITAL, 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.

LC NUMBERS:

2012CV211568

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 21, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 19, 2012

The Court of Appeals hereby passes the following order:

A13D0029. LUKE CUNNINGHAM v. THE STATE.

In 2000, Luke Cunningham pled guilty to felony possession of marijuana. In 2012, he moved to vacate his conviction, arguing that it should be set aside because his attorney failed to inform him of the potential immigration consequences of his guilty plea. The trial court dismissed the motion, concluding that it was untimely whether it was construed as a motion to withdraw a guilty plea, motion in arrest of judgment, or petition for habeas corpus.[1] Cunningham then filed in this Court a pleading titled "Emergences Motion Petition for Writ of Error Coram Nobis." We interpreted the pleading as an application for discretionary appeal and docketed it accordingly.

An order denying an out-of-time motion to withdraw a guilty plea is directly appealable, as is an order denying a motion in arrest of judgment. *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008); *Lay v. State*, 289 Ga. 210, 211 (2) (710 SE2d 141) (2011). This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Cunningham's application is GRANTED. He shall have ten days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial court is directed to include a copy of

---

[1] Although Cunningham has not attached a copy of his motion, we conclude based on the information before us that it cannot be interpreted as a habeas corpus petition because he did not sue or serve the person having custody of him. See OCGA § 9-14-15.

this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/19/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 19, 2012

The Court of Appeals hereby passes the following order

A13D0030. IN THE INTERST OF: J. J., AND L. H., CHILDREN (MOTHER).

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

LC NUMBERS:

11CV4264 11CV4263

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 19, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 20, 2012

The Court of Appeals hereby passes the following order

A13D0031. PENNY WILLIAMS v. MARK BUTLER.

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.

LC NUMBERS:

101790918

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 20, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 26, 2012

The Court of Appeals hereby passes the following order

A13D0032. ANGELA BYWATERS v. FEDERAL NATIONAL MORTGAGE ASSOCIATION .

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

LC NUMBERS:

2012CV211861

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 26, 2012.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 22, 2012

The Court of Appeals hereby passes the following order

A13D0032. ANGELA BYWATERS v. FEDERAL NATIONAL MORTGAGE ASSOCIATION .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 22, 2012.

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

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

Holly K. O. Sparrow , *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: November 01, 2012

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 **S13C0312**.

ANGELA BYWATERS v. FEDERAL NATIONAL MORTGAGE ASSOCIATION

Clerk, Supreme Court of Georgia

NOV - 1 2012

Case No. A13D0032
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0312 Atlanta, February 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ANGELA BYWATERS v. FEDERAL NATIONAL MORTGAGE ASSOCIATION

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 writ denied.

All the Justices concur, except Blackwell, J., disqualified.

Court of Appeals Case No.
A13D0032

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 25, 2013

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.

Sui C. Sutton , Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S13C0312

Atlanta, February 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

ANGELA BYWATERS v. FEDERAL NATIONAL MORTGAGE ASSOCIATION

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur, except Blackwell, J., disqualified.

Court of Appeals Case No. A13D0032

RECEIVED IN OFFICE
2013 FEB 26 PM 4:01
CLERK'S OFFICE
COURT OF APPEALS OF GA

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.

Thiia A Bamm, Clerk

Court of Appeals of the State of Georgia

ATLANTA, September 20, 2012

The Court of Appeals hereby passes the following order:

A13D0033. VLADIMIR ZVERKOV v. JULIA CRISWELL.

Vladimir Zverkov has filed an application for discretionary appeal, challenging the trial court's order on a petition for legitimation and custody, in which it awards primary physical custody of Zverkov's and Julia Criswell's child to Criswell. Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED.

Zverkov shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/20/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order

A13D0033. VLADIMIR ZVERKOV v. JULIA CRISWELL.

Upon consideration of the APPELLEE'S motion FOR FRIVOLOUS APPEAL in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 11, 2012.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Hally K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 21, 2012

The Court of Appeals hereby passes the following order

A13D0034. EDWARD KRAMER et al v. DRAGON CON/ACE, INC., et al .

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

LC NUMBERS:

2009CV164912

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 21, 2012.

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

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

Kelly K. O. Spencer , *Clerk.*

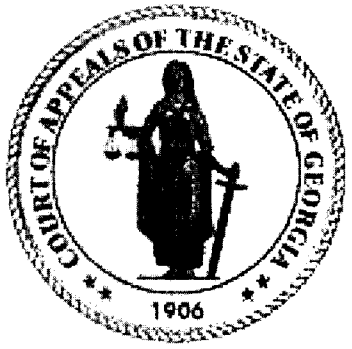
Court of Appeals
of the State of Georgia

ATLANTA, May 03, 2013

The Court of Appeals hereby passes the following order

A13D0034. EDWARD KRAMER et al v. DRAGON CON/ACE, INC., et al .

Upon consideration of the APPELLEE'S motion FOR FRIVOLOUS APPEAL in the above styled case, it is ordered that the motion is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 03, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 03, 2013

The Court of Appeals hereby passes the following order:

A13D0034. EDWARD KRAMER et al v. DRAGON CON/ACE,INC., et al.

Upon consideration of ROBERT PATTERSON HENRY and SHERRY HENRY'S motion for sanctions in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/03/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 20, 2012

The Court of Appeals hereby passes the following order:

A13D0035. TRACY MAYFIELD v. THE STATE.

Tracy Mayfield seeks review of the trial court's order denying his motion to reduce/modify sentence. The superior court's order was entered on April 4, 2012, and Mayfield filed his application for discretionary appeal on August 29, 2012.

A discretionary application must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Mayfield filed his application 147 days after entry of the order he seeks to appeal. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/20/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 25, 2012

The Court of Appeals hereby passes the following order:

A13D0036. CASSAUNDRA BLANCHARD v. MITCHELL DAVID FOWLER.

Michell David Fowler filed a petition against Cassaundra Blanchard seeking primary custody of their minor daughter. The trial court entered judgment in favor of Fowler, and Blanchard filed motions for post-judgment relief, including a new trial. The trial court denied the motions, after which Blanchard filed this application for discretionary appeal.

Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge an order in a child custody case, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Blanchard shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/25/2012

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 01, 2012

The Court of Appeals hereby passes the following order:

A13D0037. THOMAS HOLCOMBE, III, v. ROBERT C. RICHIE.

The probate court appointed Robert C. Richie as administrator of the estate of Louvenia Holcombe. Thomas Holcombe, III, moved to have this order set aside under OCGA § 9-11-60 (d). The trial court denied the motion on March 16, 2012, and Holcombe filed this application for discretionary appeal on September 4, 2012.[1] We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the order on appeal. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Because Holcombe filed his application 172 days after the entry of the order he seeks to appeal, the application was not timely and is hereby DISMISSED for lack of jurisdiction.

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[1] Holcombe first filed a direct appeal to the superior court, which transferred the matter to this Court. Holcombe's appeal was dismissed for failure to follow discretionary procedures. See *Holcombe v. Richie*, (Case No. A12A2527, dismissed August 28, 2012).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/01/2012

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

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

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 21, 2012

The Court of Appeals hereby passes the following order:

A13D0038. ANNA MARIE DILLARD v. LORI BENNETT.

Lori Bennett sued Omni Builders Risk, Inc. and James Dillard for breach of contract and fraudulent inducement.[1] After Bennett voluntarily dismissed the fraudulent inducement claim, Dillard filed a motion for OCGA § 9-15-14 attorney fees. On August 2, 2012, the trial court entered an order denying the claim for attorney fees. The same day, the trial court entered final judgment. Bennett filed a direct appeal from the final order, and Dillard has filed this application for discretionary appeal from the trial court's denial of OCGA § 9-15-14 attorney fees.[2]

Although an application for discretionary appeal is ordinarily required to appeal a trial court's ruling on OCGA § 9-15-14 attorney fees, no such application is needed when a direct appeal is pending in the underlying judgment. See *Haggard v. Board of Regents of University System of Georgia*, 257 Ga. 524, 526 (4) (a) (360 SE2d 566) (1987). Thus, because a direct appeal is pending in the underlying case, no application is required.

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. As it does not appear that Dillard has filed a notice

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[1] James Dillard died, and Anna Marie Dillard, the executrix of his estate, was substituted as a party.

[2] Bennett's direct appeal has not yet been docketed in this Court, but Dillard has included a date-stamped copy of the notice of appeal showing that a timely notice of appeal has been filed.

of appeal, this application is hereby GRANTED. Dillard shall have ten days from the date of this order to file a notice of appeal with the trial court. The trial court is instructed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/21/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 26, 2012

The Court of Appeals hereby passes the following order:

A13D0039. WILBUR LAMAR BURSON v. LOVETTE C. LINDON.

Wilbur Burson, who is incarcerated, has filed a pro se application for discretionary appeal. He seeks review of a trial court order that was entered on July 17, 2012. Burson filed his application on August 30, 2012.

A discretionary application must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Burson's application was filed 44 days after entry of the order he seeks to appeal. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/26/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lanoue , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 03, 2012

The Court of Appeals hereby passes the following order

A13D0039. WILBUR LAMAR BURSON v. LOVETTE C. LINDON.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 03, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 01, 2012

The Court of Appeals hereby passes the following order:

A13D0040. JAMES DAVID SULLIVAN v. WILLIAM DUNCAN CARVER, II.

James David Sullivan is a non-party who was subpoenaed as a witness in a divorce action between William Duncan Carver, II and Kirsten Laura Carver. In February 2011, the trial court ordered Sullivan to sit for a deposition and produce requested discovery. In December 2011, the court directed Sullivan to pay attorney fees to William Duncan Carver's counsel. Sullivan filed motions for reconsideration of both orders. The trial court denied the motions for reconsideration, and on August 2, 2012, Sullivan filed this application for discretionary appeal.[1]

An order denying a motion for reconsideration is not appealable in its own right. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Moreover, a motion for reconsideration does not extend the time for filing an application to appeal. See *Harris v. State*, 278 Ga. 280, 282 n.3 (600 SE2d 592) (2004). Thus, in order to appeal, Sullivan had to file his application within 30 days of the trial court's February 2011 and December 2011 orders. See OCGA § 5-6-35 (d). His failure to do so deprives us of jurisdiction over this application, which is hereby DISMISSED.

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[1] Sullivan filed this application in the Supreme Court, which transferred it here upon finding that this Court has jurisdiction over "orders in pending divorce cases that do not involve issues of divorce or alimony."



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/01/2012

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

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

Holly K. A. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 17, 2012

The Court of Appeals hereby passes the following order:

A13D0041. JEREMY KEITH PUCKETT v. THE STATE.

Jeremy Keith Puckett was convicted of child molestation in 2009, and his conviction was affirmed on appeal. See *Puckett v. State*, 310 Ga. App. 153 (712 SE2d 579) (2011). Puckett filed a motion to vacate a void conviction, which the trial court denied on June 22, 2012. Puckett filed this application for discretionary appeal on August 13, 2012.[1] We lack jurisdiction.

To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Puckett filed his application 52 days after entry of the trial court's order. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/17/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

[1] Puckett initially filed his application in the Supreme Court, but it was transferred to this court.

Court of Appeals
of the State of Georgia

ATLANTA, October 04, 2012

The Court of Appeals hereby passes the following order

A13D0041. JEREMY KEITH PUCKETT v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 04, 2012.

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

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

Kelly K. O. Spanos , *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: October 13, 2012

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 **S13C0233**.

JEREMY KEITH PUCKETT v. STATE OF GEORGIA

Clerk, Supreme Court of Georgia

Case No. A13D0041
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0233 Atlanta, February 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JEREMY KEITH PUCKETT v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0041

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 25, 2013

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.

Sui C. Britton , Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S13C0233

Atlanta, February 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

JEREMY KEITH PUCKETT v. THE STATE

The Supreme Court today denied the petition for certiorari in this case. All the Justices concur.

Court of Appeals Case No. A13D0041

RECEIVED IN OFFICE
2013 FEB 26 PM 4:01
COURT OF APPEALS OF GEORGIA

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.

Thiina A Bamua, Clerk

Court of Appeals
of the State of Georgia

ATLANTA, September 25, 2012

The Court of Appeals hereby passes the following order

A13D0042. RAMZA MULALIC v. GWINNETT FAMILY DENTAL CARE.

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.

LC NUMBERS:

06C00395

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 25, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 09, 2012

The Court of Appeals hereby passes the following order:

A13D0043. JOHNNY HAYGOOD et al. v. DEANNA STILES et al.

This case is one of several actions between Johnny and Donna Haygood and their neighbors, Deanna and Greg Stiles. The defendants filed a motion to dismiss, asking the court to dismiss the Haygoods' complaint and schedule a bench trial for their counterclaims. On August 27, 2012, the trial court entered an order granting the defendant's motion. The Haygoods have now filed an application for discretionary appeal from that order. We lack jurisdiction.

From the materials submitted with the application, it appears that the defendants' counterclaims remaining pending below. Because no final judgment has been entered, the Haygoods were required to follow the interlocutory appeal procedures to obtain review of the August 27 order. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Thus, they were required to obtain a certificate of immediate review from the trial court before filing their application. See *Scruggs*, supra at 588 (1). Moreover, an appellate court generally will not review the trial court's discretionary decision to refuse a certificate of immediate review of interlocutory rulings. See id.; *B & D Fabricators v. D. H. Blair Inv. Banking Corp.*, 220 Ga. App. 373, 375 (3) (469 SE2d 683) (1996).

The Haygoods have not followed the interlocutory-appeal procedures, and their failure to do so deprives this Court of jurisdiction to consider this application. Accordingly, this application is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/09/2012

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 10, 2012

The Court of Appeals hereby passes the following order:

A13D0044. KIMBLE GLASPER v. THE STATE.

Kimble Glasper filed this application for discretionary appeal seeking review of a trial court order revoking his probation. Glasper, however, has failed to include a copy of the order he wishes to appeal.[1] Under OCGA § 5-6-35 (c), an applicant for discretionary appeal "*shall* include as exhibits to the petition a copy of the order or judgment being appealed and should include a copy of the petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion." (Emphasis supplied.) See also Court of Appeals Rule 31 (e) ("Discretionary applications must contained a stamped 'filed' copy of the trial court's order or judgment from which the appeal is sought."). Without the trial court's order, we have nothing to review. This application is therefore DISMISSED.

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[1] The only order included with the application is an order permitting the state to supplement its petition for probation revocation. Glasper also included a copy of the transcript from the revocation hearing, in which the trial court orally granted the state's petition. This oral order, however, is not appealable. See *Cameron v. Miles*, 304 Ga. App. 161, 163 (695 SE2d 691) (2010).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/10/2012

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

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

Holly K. O. Loma, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 10, 2012

The Court of Appeals hereby passes the following order

A13D0045. CURTIS MEEKS v. NAYLOR, INC., et al .

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

LC NUMBERS:

2012CV216935

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 10, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 01, 2012

The Court of Appeals hereby passes the following order

A13D0046. ZAKIYYAH I. SHAHEED v. EMPIRE LEASING, INC., d/b/a EMPIRE FINANCE, ASSIGNEE OF TRONCALLI MOTORS, 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.

LC NUMBERS:

88A44066

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 01, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 04, 2012

The Court of Appeals hereby passes the following order:

A13D0047. CHARLES HARPER v. COMMISSIONER OF THE GEORGIA DEPARTMENT OF LABOR, et al.

The Georgia Department of Labor denied Charles Harper's claim for unemployment compensation, and Harper appealed to the superior court. On June 22, 2012, the superior court entered an order affirming the Department's decision. On September 11, 2012, Harper filed this application for discretionary review.

A discretionary application must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Harper filed his application 81 days after entry of the order he seeks to appeal. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/04/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 02, 2012

The Court of Appeals hereby passes the following order

A13D0048. WILLIAM R. KINSALA v. GEORGE HAIR 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.

LC NUMBERS:

10A2781

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 02, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 13, 2012

The Court of Appeals hereby passes the following order:

A13D0049. ALLEN P. GOLDEN v. THE STATE.

Golden's "Motion Discretionary Appeal Merits" is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/13/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 13, 2012

The Court of Appeals hereby passes the following order

A13D0049. ALLEN P. GOLDEN v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 13, 2012.

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

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

Kelly K. O. Spanos , *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: November 26, 2012

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 **S13C0468**.

ALLEN P. GOLDEN v. THE STATE

Clerk, Supreme Court of Georgia

Sent to SC DEC - 5 2012

Case No. A13D0049
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0468 Atlanta, March 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALLEN P. GOLDEN v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0049

RECEIVED IN OFFICE
2013 MAR 20 PM 4:09
CLERK OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 19, 2013

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.

Sue C. Ritter, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order

A13D0050. IN THE INTEREST OF: P. R., A CHILD (MOTHER) .

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

LC NUMBERS:

0111TP03206

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 11, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 09, 2012

The Court of Appeals hereby passes the following order:

A13D0051. DEANA J. JORDAN v. CAPITAL ONE BANK (USA) N.A.

Deana J. Jordan, defendant in the case below, seeks review of the trial court's June 11, 2012 order granting summary judgment to the plaintiff. On July 12, 2012, Jordan filed a notice of appeal in the superior court, which was docketed here as Case No. A12A2521. We dismissed that appeal, explaining that Jordan was required to follow the discretionary appeal procedures to obtain review of the trial court's order because it was an award of less than $10,000 in an action for damages. Jordan then filed this application for discretionary review.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). We lack jurisdiction to consider an untimely application. See *Hill*, supra. Here, Jordan filed her application on September 13, 2012, which was 94 days after the trial court's order was entered. Accordingly, we lack jurisdiction.

To the extent Jordan contends that her application should be deemed timely filed, her arguments are without merit. "[T]he failure to meet the statutory deadline for filing a discretionary appeal is a jurisdictional defect," and we may excuse compliance with this requirement "only where necessary to avoid or remedy a constitutional violation concerning the appeal." *Gable v. State*, 290 Ga. 81, 82 (2) (a) (720 SE2d 170) (2011); see also *Crosson v. Conway*, 291 Ga. 220 (1) (728 SE2d 617) (2012) (where a pro se party failed to file a timely application for discretionary

appeal, the appellate court lacks jurisdiction to entertain the appeal).

Because Jordan's application is untimely, it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/09/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lanoue, *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: October 19, 2012

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 **S13C0246**.

DEANA J. JORDAN v. CAPITAL ONE BANK (USA) N.A.

Clerk, Supreme Court of Georgia

OCT 26 2012

Case No. A13D0051
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0246 Atlanta, February 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DEANA J. JORDAN v. CAPITAL ONE BANK (USA) N.A.

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0051

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 25, 2013

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.

Sui C. Sutton , Chief Deputy Clerk

SUPREME COURT OF GEORGIA
Case No. S13C0246

Atlanta, February 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

DEANA J. JORDAN v. CAPITAL ONE BANK (USA) N.A.

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Court of Appeals Case No. A13D0051

RECEIVED IN OFFICE
2013 FEB 26 PM 4:01
CLERK/ADMINISTRATOR
COURT OF APPEALS OF GA

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.

Thiia A Bamm, Clerk

Court of Appeals of the State of Georgia

ATLANTA, October 10, 2012

The Court of Appeals hereby passes the following order

A13D0052. IN THE INTEREST OF: C. J., F. N. R., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1200639 1200642

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 10, 2012.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order:

A13D0053. CHARTAVIUS K. JAMES v. THE STATE.

Chartavius James, who is incarcerated, has filed a pro se application for discretionary appeal. He seeks review of a trial court order that was entered on August 2, 2012. James filed his application on September 17, 2012. We lack jurisdiction.

A discretionary application must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, James's application was filed 46 days after entry of the order he seeks to appeal. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/11/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order

A13D0054. IN RE: ILLIE RODRIGUEZ, A MINOR CHILD .

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 Probate Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

20102148

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 11, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 19, 2012

The Court of Appeals hereby passes the following order:

A13D0055. ANGELA MADDOX, et al. v. REGGIE DAVIS, et al.

Angela Maddox and Arrgon Hankins filed an action against the City of Smyrna and several police officers, asserting claims related to their September 2010 arrests. On August 7, 2012, the trial court entered several orders granting various defendants summary judgment. On September 19, 2012, Maddox and Hankins filed this application, seeking review of the trial court's August 7 orders.[1]

The August 7 orders were directly appealable because they granted summary judgment and because the trial court certified them as final pursuant to OCGA § 9-11-54 (b). See OCGA § 9-11-56 (h); OCGA § 9-11-54 (b). Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v State*, 204 Ga App 582 (420 SE2d 393) (1992). Maddox and Hankins filed their application 43 days after the trial court's orders were entered. Accordingly, their application is untimely and must be DISMISSED for lack of jurisdiction.

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[1] The Applicants titled their filing "Joint Application for Interlocutory Appeal" but did not include a certificate of immediate review. Accordingly, their filing was docketed as an application for discretionary appeal.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/19/2012

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

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

Holly K. D. Loma, *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: November 16, 2012

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 **S13C0392**.

ANGELA MADDOX et al. v. REGGIE DAVIS, et al.

Clerk, Supreme Court of Georgia

NOV 21 2012

Case No. A13D0055
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0392 Atlanta, April 15, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ANGELA MADDOX et al. v. REGGIE DAVIS, et al.

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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A13D0055

RECEIVED IN OFFICE
2013 MAY -2 AM 9:01
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta April 30, 2013

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order:

A13D0056. JERRY LARRY COLLIER v. ECONOMY AUTO SALES, INC.

Jerry Larry Collier brought a civil action against Economy Auto Sales, Inc. The trial court granted summary judgment to the defendant, and Collier filed this application for discretionary appeal. Pursuant to OCGA § 9-11-56 (h), the grant of summary judgment is reviewable by direct appeal. *Whiddon v. Stargell*, 192 Ga. App. 826, 828 (386 SE2d 884) (1989). Therefore, the order in this case is subject to direct appeal.

This Court will grant an otherwise timely discretionary application if the lower court's order is directly appealable and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Collier, however, has already filed a timely notice of appeal in the trial court, and the resulting appeal has been docketed here as A13A0309. Accordingly, this application is superfluous and is hence DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/11/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 10, 2012

The Court of Appeals hereby passes the following order:

A13D0057. DANNY HAWK v. JOE LEWIS WALKER.

Danny Hawk, appearing pro se, has filed an application for discretionary appeal of two orders entered by the trial court on February 21, 2012. One of the orders entered a default judgment as to liability against Joe Lewis Walker and the other denied Hawk's motion to recuse. We lack jurisdiction.

To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6-35 (d). Hawk filed his application on September 19, 2012, 211 days after entry of the trial court's orders. Accordingly, we lack jurisdiction to consider the application, which is hereby DISMISSED as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/10/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 09, 2012

The Court of Appeals hereby passes the following order:

A13D0057. Hawk v. Walker.

Having considered appellant Hawk's motion for reconsideration and amended motion for reconsideration of the dismissal of this appeal, the motions are hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/09/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. B. Loomis , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0481 Atlanta, March 04, 2013

The Honorable Supreme Court met pursuant to adjournment.

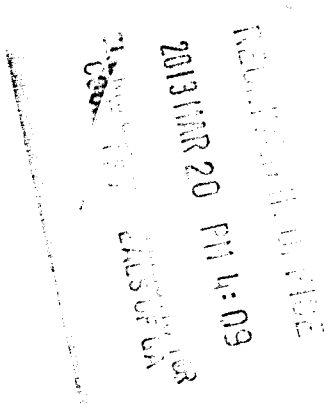
The following order was passed:

DANNY HAWK v. JOE LEWIS WALKER

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0057



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 19, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, October 12, 2012

The Court of Appeals hereby passes the following order

A13D0058. SHELTON ROBERSON v. MARK BUTLER, COMMISSIONER OF LABOR 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.

LC NUMBERS:

12CV7012

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 12, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 18, 2012

The Court of Appeals hereby passes the following order

A13D0059. FRANK W. METASAVAGE v. KENNETH E. PERKINSON et al .

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

LC NUMBERS:

SU11CV1169

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 18, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order:

A13D0060. CAROL M. CEREZO v. MURPHY OIL USA, INC.

Carol M. Cerezo filed this application for discretionary review, seeking to appeal the trial court's order granting summary judgment to Murphy Oil USA, Inc. in Cerezo's premises liability action. An order granting summary judgment is subject to direct appeal. See OCGA § 9-11-56 (h); *Culwell v. Lomas & Nettleton Co.*, 242 Ga. 242, 243 (248 SE2d 641) (1978). Under OCGA § 5-6-35 (j), this Court will grant an otherwise timely application for discretionary appeal if the order is subject to direct appeal. Accordingly, Cerezo's application is hereby GRANTED. She shall have 10 days from the date of this order to file a notice of appeal with the trial court, if she has not already done so. The clerk of the trial court is instructed to include a copy of this order in the appellate record.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/11/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 17, 2012

The Court of Appeals hereby passes the following order

A13D0061. GEORGIA DEPARTMENT OF BEHAVIORAL HEALTH & DEVELOPMENTAL DISABILITIES v. RAJESH PATEL.

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.

LC NUMBERS:

12CV5520

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 17, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 18, 2012

The Court of Appeals hereby passes the following order

A13D0062. LEIGH ANNE WELLER v. MARK BUTLER, COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR et al .

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

LC NUMBERS:

1212934

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 18, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 11, 2012

The Court of Appeals hereby passes the following order:

A13D0063. CHRISTOPHER L. LEACH v. ALISHA MALCOM et al.

Christopher Leach filed this application for discretionary appeal seeking to challenge the trial court's order dismissing his mandamus action. The Supreme Court, however, has exclusive appellate jurisdiction over all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) ("'[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.'"). Accordingly, this case is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/11/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 23, 2012

The Court of Appeals hereby passes the following order

A13D0064. JOE COLE v. CHRISTOPHER SMARR.

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

LC NUMBERS:

11EV011979

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 23, 2012.

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

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

Kelly K. O. Spencer , *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: November 13, 2012

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 **S13C0367**.

JOE COLE v. CHRISTOPHER SMARR

Clerk, Supreme Court of Georgia

NOV 15 2012

Case No. A13D0064
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0367 Atlanta, February 18, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOE COLE v. CHRISTOPHER SMARR

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0064

MAR 0 8 2013

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 08, 2013

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.

Lisa C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, October 10, 2012

The Court of Appeals hereby passes the following order:

A13D0065. PAUL LATHAM v. DAWN C. ALVAN.

Paul Latham seeks discretionary review of the trial court's "Final Order on Motions for Contempt and for Modification of Child Support." In its order, the trial court denied Latham's petition for change of custody and for joint custody and modified Latham's child support payment.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009).

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Latham shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/10/2012

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 18, 2012

The Court of Appeals hereby passes the following order

A13D0066. DOROTHY A. GRAVES v. THE STATE.

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

LC NUMBERS:

11C38164

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 18, 2012.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 24, 2012

The Court of Appeals hereby passes the following order:

A13D0067. ADDRENNA GILCHRIST v. DEJUAN E. GILCHRIST.

In this application for discretionary appeal, Addrenna Gilchrist seeks review of the trial court's September 7, 2012, order. In that order, the court denied Addrenna's motion to modify the parties' child visitation schedule.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. And actions seeking to change visitation are considered to be child custody cases. See *Edge v. Edge*, 290 Ga. 551, 552 (1) (722 SE2d 749) (2012). Accordingly, the September 7 order is directly appealable. See id.

Ordinarily, we will grant a timely application when the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). In this case, however, a review of our docket indicates that Addrenna also filed a notice of direct appeal from the September 7 order. This application is therefore superfluous, and is hereby DISMISSED as such.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/24/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 28, 2012

The Court of Appeals hereby passes the following order

A13D0067. ADDRENNA GILCHRIST v. DEJUAN E. GILCHRIST.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 28, 2012.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 23, 2012

The Court of Appeals hereby passes the following order

A13D0068. WILLIE FRANK WRIGHT v. THE STATE.

The APPELLANT'S PRO SE MOTION/S in the above-styled case is hereby DISMISSED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 23, 2012.

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

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

Kelly K. O. Lamar , *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: October 24, 2012

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 **S13C0254**.

WILLIE FRANK WRIGHT v. STATE OF GEORGIA

Clerk, Supreme Court of Georgia

OCT 29 2012

Case No. A13D0068
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0254 Atlanta, April 15, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILLIE FRANK WRIGHT v. THE STATE

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 writ denied.

All the Justices concur.

RECEIVED IN OFFICE
2013 MAY -2 AM 9:01
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Court of Appeals Case No.
A13D0068

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta April 30, 2013

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.

Lisa C. Hutton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, October 23, 2012

The Court of Appeals hereby passes the following order

A13D0069. IN THE INTEREST OF: A. M. B. AND M. B., CHILDREN (MOTHER).

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

14712J0538 14712J0540

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 23, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 19, 2012

The Court of Appeals hereby passes the following order:

A13D0070. LAKEVIEW BEHAVIORAL HEALTH SYSTEM, LLC v. UHS PEACHFORD, LP et al.

Lakeview Behavioral Health System, LLC was the prevailing party in an appeal to the superior court from an administrative grant of a Certificate of Need. Following the entry of judgment in its favor, Lakeview sought an award of attorney fees under OCGA § 31-6-44.1 (c). The superior court denied the request, prompting Lakeview to file this application for discretionary appeal.

Under OCGA § 5-6-35 (a) (1), a discretionary application is required to appeal "decisions of the superior courts reviewing decisions of . . . state and local administrative agencies," but this provision applies only where the superior court order to be appealed actually reviews an agency decision. See *City of Rincon v. Couch*, 272 Ga. App. 411, 411-412 (612 SE2d 596) (2005). Although the underlying litigation arose out of an administrative appeal, the order at issue did not review the agency's decision; rather, it decided a post-judgment attorney fee request that was made for the first time – and could only have been made – in the superior court. Thus, OCGA § 5-6-35 (a) (1) does not apply here.

Under OCGA § 5-6-35 (a) (10), a discretionary application is required to appeal trial court rulings on requests for attorney fees under OCGA § 9-15-14. This provision applies only to fee awards granted or denied under OCGA § 9-15-14; it does not apply to fee awards granted or denied under other statutes, such as OCGA § 31-6-44.1 (c). See *Kraft v. Dalton*, 249 Ga. App. 754, 755 n. 2 (549 SE2d 543) (2001) (no discretionary application required to appeal fee award made under OCGA § 13-6-11).

Because no provision of OCGA § 5-6-35 (a) applies here, this application is hereby GRANTED as required under OCGA § 5-6-35 (j). Lakeview shall have ten days from the date of this order to file a notice of appeal with the superior court, if it has not already done so. See OCGA § 5-6-35 (g). The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/19/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 19, 2012

The Court of Appeals hereby passes the following order

A13D0071. IN THE INTEREST OF: C. L. W. AND K. D. W., CHILDREN (FATHER) .

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

LC NUMBERS:

1200913 1200641 1200914 1200640

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 19, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 30, 2012

The Court of Appeals hereby passes the following order:

A13D0072. MARY LOUISE CALLICUTT v. JONATHAN CALLICUTT.

Mary Louise Callicutt seeks discretionary review of the trial court's "Order on Modification of Custody and Safety Plan." In its order, the trial court denied the father's petition to modify custody and the mother's petition for contempt regarding the father's interference with custody and child support, and the court also ordered that the mother comply with a safety plan.

Pursuant to OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009).

We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Callicutt shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/30/2012

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

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

Holly K. O. Lanoue, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 31, 2012

The Court of Appeals hereby passes the following order

A13D0073. ULYSEE LANORRIS HALL v. DANECA COLEY.

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.

LC NUMBERS:

2010V403

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 31, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 31, 2012

The Court of Appeals hereby passes the following order

A13D0074. MARILYN E. GOODRICH v. ISAAC GOODRICH.

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

LC NUMBERS:

08CV42853

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 31, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 01, 2012

The Court of Appeals hereby passes the following order

A13D0075. RANDY LEE POLLY 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.

LC NUMBERS:

2007CR730

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 01, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 01, 2012

The Court of Appeals hereby passes the following order

A13D0076. IN THE INTEREST OF: W. T. W., A CHILD (MOTHER) .

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

LC NUMBERS:

10J127

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 01, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 02, 2012

The Court of Appeals hereby passes the following order

A13D0077. IN THE INTEREST OF: P. T. S., A CHILD (FATHER) .

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

LC NUMBERS:

1200347 1200291

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 02, 2012.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 25, 2012

The Court of Appeals hereby passes the following order

A13D0078. TRACY JOHNSON v. THE STATE.

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

LC NUMBERS:

94CR1451

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 25, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 05, 2012

The Court of Appeals hereby passes the following order

A13D0079. MICHAEL G. REID v. MARTA.

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.

LC NUMBERS:

2012CV217228

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 05, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 25, 2012

The Court of Appeals hereby passes the following order:

A13D0080. ROY JIMENEZ v. THE STATE.

Roy Jimenez seeks discretionary review of the trial court's order denying his motion for out-of-time appeal, which was entered on August 22, 2012. Jimenez filed a timely direct appeal from that order, which has been docketed as Case No. A13A0288. In addition, on October 9, 2012, Jimenez filed the instant application for discretionary appeal from the same order.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582, 583 (420 SE2d 393) (1992). Jimenez, however, filed this application 48 days after entry of the order he seeks to appeal. Moreover, this application is duplicative, in light of Jimenez's pending direct appeal from the same order. See *Butts v. State*, 244 Ga. App. 366 (536 SE2d 154) (2000) (denial of a motion for out-of-time appeal is directly appealable).

For these reasons, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/25/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 05, 2012

The Court of Appeals hereby passes the following order

A13D0081. IN THE INTEREST OF: C. G. AND C. G., CHILDREN (MOTHER).

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

120297

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 05, 2012.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 01, 2012

The Court of Appeals hereby passes the following order

A13D0082. CARLOS COX v. THE STATE.

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

LC NUMBERS:

06CR0134

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 01, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, October 30, 2012

The Court of Appeals hereby passes the following order

A13D0083. MARION SCOTT LASETER v. DEPARTMENT OF HUMAN RESOURCES.

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.

LC NUMBERS:

100436

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, October 30, 2012.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

SUPREME COURT OF GEORGIA
Case No. S13D0045

Atlanta, September 27, 2012

RECEIVED IN OFFICE
2012 OCT 15 PM 4:21

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HENRY GUY JONES v. THE STATE

From the Superior Court of Cobb County.

Applicant appeals the dismissal of his demand for a speedy trial on a charge of aggravated stalking. As applicant makes no statement of jurisdiction, nor does there appear any basis for jurisdiction in this Court, the appeal hereby is transferred to the Court of Appeals.

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.

Sue C. Fulton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, November 07, 2012

The Court of Appeals hereby passes the following order:

A13D0084. HENRY GUY JONES v. THE STATE.

Henry Guy Jones, *pro se*, seeks discretionary review of the trial court's order denying demand for speedy trial. A defendant has the right to directly appeal from the pre-trial denial of a speedy trial demand. *Callaway v. State*, 275 Ga. 332 (567 SE2d 13) (2002).

Under OCGA § 5-6-35 (j), when a timely application for discretionary appeal is filed in a case that is subject to direct appeal under OCGA § 5-6-34 (a), but not subject to discretionary appeal under OCGA § 5-6-35 (a), and the applicant has not filed a timely notice of appeal, the appellate court has jurisdiction to decide the case and must grant the application.[1] Accordingly, this application is GRANTED. Jones shall have ten days from the date of this order to file a notice of appeal with the superior court. OCGA § 5-6-35 (g). The clerk of the superior court is instructed to include a copy of this order in the appeal record transmitted to this Court.

---

[1] Jones filed his timely application in the Supreme Court, which transferred it here.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/07/2012

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

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

Kelly K. O. Lamar, *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 31, 2012

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 **S13C0669**.

HENRY GUY JONES v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A13D0084
Court of Appeals of Georgia

Notice of Petition for Certiorari filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0669 Atlanta, June 03, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HENRY GUY JONES v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0084

RECEIVED IN OFFICE
2013 JUN 19 PM 3:28
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 18, 2013

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, November 13, 2012

The Court of Appeals hereby passes the following order:

A13D0085. SHERWIN S. PERKINS v. THE STATE.

Sherwin S. Perkins has filed a pro se application for discretionary appeal from the trial court's order dismissing his extraordinary motion for new trial. The trial court's order was entered on May 18, 2012, and Perkins filed his application on August 30, 2012.[1]

We lack jurisdiction because Perkins's application is untimely. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Perkins filed his application 104 days after entry of the order he seeks to appeal. His application is thus untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/13/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , Clerk.

[1] Perkins filed his application in the Supreme Court, which transferred the matter here.

Court of Appeals of the State of Georgia

ATLANTA, November 06, 2012

The Court of Appeals hereby passes the following order

A13D0086. THERON REYNOLDS et al v. H. J. CLARK.

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.

LC NUMBERS:

2009CV364

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 06, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 09, 2012

The Court of Appeals hereby passes the following order

A13D0087. NANCY LYNNE BERNHEIM v. GLENN OWEN PAPPAS.

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

LC NUMBERS:

11A04759

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 09, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 07, 2012

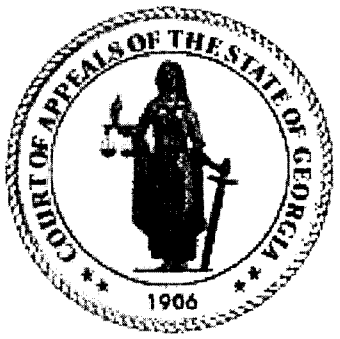
The Court of Appeals hereby passes the following order

A13D0088. RENTERS REFERENCE SERVICES, INC., v. EASTWYCK VILLAGE TOWNE HOUSES, INC., d/b/a EASTWYCK VILLAGE TOWNHOMES COOPERATIVE.

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.

LC NUMBERS:

12A41797



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 07, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 09, 2012

The Court of Appeals hereby passes the following order

A13D0089. SHERRY ROYAL v. PULASKI STATE PRISON 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.

LC NUMBERS:

2012V13845

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 09, 2012.

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

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

Holly K. O. Ipanova , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 15, 2012

The Court of Appeals hereby passes the following order

A13D0090. CENTER FOR A SUSTAINABLE COAST, INC v. JUDSON TURNER.

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.

LC NUMBERS:

2012CV213678

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 15, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 09, 2012

The Court of Appeals hereby passes the following order

A13D0091. JEAN JOCELYN MERILIEN v. T.N.B., TV. CHANNEL - 11 ALIVE.

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

LC NUMBERS:

2012CV222115

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 09, 2012.

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

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

Kelly K. O. Lawson , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 15, 2012

The Court of Appeals hereby passes the following order

A13D0092. MATTHEW STEVEN CHANDLER v. MAXINE MARIE GIBSON ROHNER.

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.

LC NUMBERS:

11CV03923

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 15, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0604 Atlanta, May 06, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

YONG Y. YANG v. THOMAS L. HOLDER

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0093

RECEIVED IN OFFICE
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COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 21, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

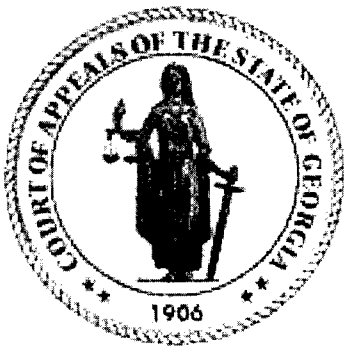
Court of Appeals
of the State of Georgia

ATLANTA, December 07, 2012

The Court of Appeals hereby passes the following order

A13D0093. YONG Y. YANG v. EAST TRANSPORTATION, INC., et al .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 07, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 14, 2012

The Court of Appeals hereby passes the following order

A13D0093. YONG Y. YANG v. EAST TRANSPORTATION, INC., et al .

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

LC NUMBERS:

2012CV215875

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 14, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 20, 2012

The Court of Appeals hereby passes the following order:

A13D0094. CHRISTOPHER C. MCCLURG v. MOLLY J. RIDDELL.

Benjamin Riddell and Molly Riddell divorced in 2007. Molly Riddell filed a petition for contempt based on Benjamin Riddell's failure to pay child support, and Benjamin Riddell filed a complaint for modification of child support. The trial court granted Molly Riddell's petition for contempt and denied Benjamin Riddell's complaint for modification of child support. The trial court subsequently denied Benjamin Riddell's motion for new trial. Molly Riddell then filed a request for attorney fees, and the trial court awarded her fees in the amount of $840 against Christopher McClurg, Benjamin Riddell's attorney. It is from this order that McClurg seeks discretionary appeal.

The sole and underlying issue involved in this application is the order on attorney fees, which is based upon the determination of which party prevailed in the child support modification action. Under the Georgia Constitution of 1983, Art VI, Sec. I, Par. III (6), the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." *Schmidt v. Schmidt*, 270 Ga. 461, 462 (2) (510 SE2d 810) (1999). In Georgia, child support is a form of alimony. *Smith v. Smith*, 254 Ga. 450, 451 (330 SE2d 706) (1985) (the purpose of alimony is to provide *support* for the needy spouse and minor children). Because the attorney fees issue is ancillary to the child support award, this court lacks appellate jurisdiction over this application. See *Haley v. Haley,* 282 Ga. 204 (647 SE2d 10) (2007); *Keeler v. Keeler*, 263 Ga. 151 (430 SE2d 5) (1993). Accordingly, this application is TRANSFERRED to the Supreme Court of Georgia.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/20/2012

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

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

Holly K. D. Lanoa, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 15, 2012

The Court of Appeals hereby passes the following order:

A13D0095. MARIO WILLIAMS v. ANDREW RUSSO.

Attorney Mario Williams represents an inmate housed at the Georgia Diagnostic and Classification Prison. Williams alleges that correctional officer Andrew Russo opened and confiscated mail from his client that was addressed to him. Seeking to have Russo criminally charged, Williams applied to the superior court for a probable cause warrant hearing. He also subpoenaed the Department of Corrections to produce witnesses and evidence at the hearing. The court quashed the subpoena and dismissed the warrant application. Williams then filed both a notice of appeal and this application for discretionary appeal.

The superior court's order appears to be final, and no provision of OCGA § 5-6-35 (a) appears to be applicable. Therefore, the order is subject to direct appeal. Based on Williams's filing of a notice of appeal, however, this matter has already been docketed as a direct appeal. See A13A0462. Accordingly, this application is superfluous, and it is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/15/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 16, 2012

The Court of Appeals hereby passes the following order

A13D0096. SCOTT CHARLESTON v. THE STATE.

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

LC NUMBERS:

2011FE0279

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 16, 2012.

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

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

Kelly K. O. Connor , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 13, 2012

The Court of Appeals hereby passes the following order:

A13D0097. WILLIE CHARLES JACKSON v. THE STATE.

On November 30, 2011, the trial court entered an order revoking Willie Charles Jackson's probation. On October 19, 2012, Jackson filed a "Notification to Clarify Sentence," asserting that the trial court erred in revoking his probation. His filing has been docketed in this Court as an application for discretionary appeal.

We lack jurisdiction because Jackson's application is untimely. An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). We lack jurisdiction to consider an untimely application. See *Hill*, supra. Here, Jackson filed his application 324 days after the trial court's order was entered. Accordingly, we lack jurisdiction and the application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/13/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 14, 2012

The Court of Appeals hereby passes the following order

A13D0098. ANTHONY SHANE RAY v. JOHNNY WAYNE HANN, JR.

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

LC NUMBERS:

12AD2362

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 14, 2012.

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

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

Holly K. O. Loanoa , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 14, 2012

The Court of Appeals hereby passes the following order

A13D0099. ANTHONY SHANE RAY v. NANCY JOY HANN.

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.

LC NUMBERS:

12CV01598

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 14, 2012.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 15, 2012

The Court of Appeals hereby passes the following order

A13D0100. THE GEORGIA DEPARTMENT OF DRIVER SERVICES v. ROBERT EARL APPLING.

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.

LC NUMBERS:

2012V953

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 15, 2012.

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

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

Holly K. O. Ipanova , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 30, 2012

The Court of Appeals hereby passes the following order:

A13D0101. MARJORIE AUBAIN-GRAY, et al. v. HOBBY LOBBY STORES, INC.

Marjorie Aubain-Gray brought a civil action against Hobby Lobby Stores, Inc. The trial court granted summary judgment to the defendant, and Aubain-Gray filed this application for discretionary appeal. Pursuant to OCGA § 9-11-56 (h), the grant of summary judgment is reviewable by direct appeal. *Whiddon v. Stargell*, 192 Ga. App. 826, 828 (386 SE2d 884) (1989). Therefore, the order in this case is subject to direct appeal. This Court will grant an otherwise timely discretionary application if the lower court's order is directly appealable and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Therefore, this application is GRANTED.

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

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/30/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 21, 2012

The Court of Appeals hereby passes the following order

A13D0102. IN THE INTEREST OF: A.H., D.V. AND M.K., CHILDREN (MOTHER).

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

LC NUMBERS:

12JV00733 12JV00734 12JV00735

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 21, 2012.

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 21, 2012

The Court of Appeals hereby passes the following order

A13D0103. MEDIA DANIELS v. ATLANTA INDEPENDENT SCHOOL SYSTEM.

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

LC NUMBERS:

2012CV218536

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 21, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

# of Appeals
State of Georgia

ATLANTA, November 19, 2012

The Court of Appeals hereby passes the following order

A13D0104. CAROL ANN VASKO v. THE SECRETARY OF VETERANS AFFAIRS.

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

LC NUMBERS:

12D88

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 19, 2012.

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

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

Kelly K. O. Lamar , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, November 26, 2012

The Court of Appeals hereby passes the following order

A13D0105. JOY CAGLE et al v. MARK SCHEINFELD 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.

LC NUMBERS:

10105652

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 26, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 21, 2012

The Court of Appeals hereby passes the following order

A13D0106. ROBERT L. VEAL et al v. DEUTSCHE BANK NATIONAL TRUST COMPANY.

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

LC NUMBERS:

10A00107

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 21, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 27, 2012

The Court of Appeals hereby passes the following order

A13D0107. CORNELIUS WEBSTER v. HENRY COUNTY, GEORGIA et al .

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

LC NUMBERS:

12CV0947

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 27, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 19, 2013

The Court of Appeals hereby passes the following order

A13D0108. FEDERAL INSURANCE COMPANY et al v. HARRY TOMPKINS et al .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 19, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 20, 2012

The Court of Appeals hereby passes the following order

A13D0108. FEDERAL INSURANCE COMPANY et al v. HARRY TOMPKINS et al .

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

LC NUMBERS:

1J12CV045

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 20, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 27, 2012

The Court of Appeals hereby passes the following order:

A13D0109. MARILYN E. GOODRICH v. BANK OF AMERICA, N.A.

Marilyn E. Goodrich has filed an application for discretionary review of the trial court's October 23, 2012, order. Among other things, that order dismissed Goodrich's notice of appeal from a previous order.

"The dismissal of an appeal by the trial court is subject to direct appeal." *Castleberry's Food Co. v. Smith*, 205 Ga. App. 859, 860 (424 SE2d 33) (1992). We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Goodrich shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal from the order at issue, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/27/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 27, 2012

The Court of Appeals hereby passes the following order:

A13D0110. WILLIAM MIDDLETON v. THE STATE.

On November 9, 2005, William Thomas Middleton pled guilty to one count of sexual exploitation of children. He recently filed a pro se "Defendant's Discretionary Appeal Motion to Vacate Defendant's Guilty Plea" in this Court, arguing that his guilty plea should be vacated.

Pursuant to OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e), an application for discretionary review must include a stamped "filed" copy of the order being appealed. Here, Middleton has not included any order addressing his request to vacate his guilty plea. Accordingly, we are unable to determine whether his application was filed within 30 days of the order(s) he challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of the entry of the order). Moreover, his application is untimely as to the only order he did include: the 2005 final disposition of his criminal case.

As the applicant, Middleton bears the burden of establishing that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of O.C.G.A. § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/27/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 21, 2012

The Court of Appeals hereby passes the following order:

A13D0111. LUTHER McCANTS v. THE STATE.

On August 2, 2012, the trial court entered an order denying Luther McCants's motion for leave to file an out-of-time motion for new trial. On October 31, 2012, McCants filed this application seeking to appeal the trial court's order.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). McCants filed this application 90 days after entry of the order he seeks to appeal. Therefore, the application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/21/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loarca, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 03, 2012

The Court of Appeals hereby passes the following order

A13D0112. IN THE INTEREST OF: L. E. H. AND J. H. B., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

12JV00219 12JV00218

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 03, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 24, 2013

The Court of Appeals hereby passes the following order

A13D0113. PAMELA BUTLER v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 24, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 20, 2012

The Court of Appeals hereby passes the following order:

A13D0113. PAMELA BUTLER v. THE STATE.

On November 2, 2012, Pamela Butler filed an application for discretionary appeal. In her application, she argues, generally, that officers mistreated her and that her probation was erroneously revoked. The only order attached to Butler's application is an August 13, 2007, judgment sentencing her to five years' imprisonment followed by five years' probation.

Pursuant to OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e), an application for discretionary review must include a copy of the order being appealed. Here, Butler appears to be challenging the revocation of her probation, but she has not included any revocation order. Accordingly, we are unable to determine whether her application was filed within 30 days of the order she challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of entry of the order). Moreover, her application is untimely as to the only order she did include, as it was filed more than five years after that order was entered. See id.

As the applicant, Butler bears the burden of establishing that her application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information she provided with this application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of O.C.G.A. § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/20/2012

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

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

Kelly K. O. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 21, 2012

The Court of Appeals hereby passes the following order:

A13D0114. MARYBETH SHELBY BERINGER v. JIMMY RICHARD EMORY, JR.

Marybeth Beringer and Jimmy Emory, Jr. divorced in 2005. Emory filed a petition for contempt based on Beringer's willful violation of the morality clause and other clauses of the final divorce decree and its subsequent court modification in 2010. The trial court granted the contempt petition, modified the parties' visitation provisions, and entered an order on attorney fees. Beringer filed an application for discretionary appeal from these orders.

OCGA § 5-6-34 (a) (11) provides that "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody or holding or declining to hold persons in contempt of such child custody judgment or orders" are now directly appealable. See *Collins v. Davis*, Case No. A12A1445 (1) (decided October 30, 2012). And a child custody proceeding has been defined as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue." OCGA § 19-9-41 (4); see also *Edge v. Edge*, 290 Ga. 551, 552 (1) (722 SE2d 749) (2012) (actions seeking to change visitation are considered to be child custody cases). Accordingly, the trial court's orders in this child custody case are directly appealable.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Beringer's application is GRANTED. She shall have ten days from the date of this order to file a notice of appeal with the trial court, if she has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial court is directed to include a copy of this

order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/21/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 03, 2012

The Court of Appeals hereby passes the following order

A13D0115. IN THE INTEREST OF: K. G. D., A CHILD (FATHER) .

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

LC NUMBERS:

1200876

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 03, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 15, 2012

The Court of Appeals hereby passes the following order:

A13D0116. KENNY BEAMON v. THE STATE.

Kenny Beamon filed a petition for writ of mandamus against the State of Georgia, in which he lists several public officials as defendants. Beamon also requested to proceed in forma pauperis. By order entered August 22, 2010, the trial court denied Beamon's petition and refused to permit the filing of the action. The court also denied Beamon's in forma pauperis request. On October 30, 2012, Beamon filed an application for discretionary appeal in this Court.

The Supreme Court, however, has exclusive appellate jurisdiction over all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) ("'[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.'"). Accordingly, this case is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/15/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, November 28, 2012

The Court of Appeals hereby passes the following order:

A13D0117. CARA WILLIAMS v. THE STATE.

Cara Williams has filed a pro se application for discretionary appeal from the trial court's order denying her request for bond pending appeal. The trial court's order was entered on September 21, 2012, and Williams filed her application on November 5, 2012.[1]

We lack jurisdiction because Williams's application is untimely. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Williams filed her application 45 days after entry of the order she seeks to appeal. Therefore, her application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 11/28/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lanoue , *Clerk.*

[1] Williams attempted to file her application earlier, but it was not accepted for filing at that time because it did not include a pauper's affidavit.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0697 Atlanta, June 03, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILLIAM LANDRESS v. THE STATE

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 dismissed.

All the Justices concur.

Court of Appeals Case No.
A13D0118

RECEIVED IN OFFICE
2013 JUN 19 PM 3:28
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 18, 2013

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.

Sue C. Bitton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, December 21, 2012

The Court of Appeals hereby passes the following order

A13D0118. WILLIAM LANDRESS v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 21, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 26, 2012

The Court of Appeals hereby passes the following order

A13D0118. WILLIAM LANDRESS v. THE STATE.

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

LC NUMBERS:

2011CR669

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 26, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 28, 2012

The Court of Appeals hereby passes the following order

A13D0119. IN THE INTEREST OF: D. O. M., A CHILD (MOTHER) .

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.

LC NUMBERS:

05110J339

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 28, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 30, 2012

The Court of Appeals hereby passes the following order

A13D0120. SHILENE JOHNSON v. MARK BUTLER, COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR 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.

LC NUMBERS:

2012CV215368

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 30, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, November 20, 2012

The Court of Appeals hereby passes the following order

A13D0121. CHRISTOPHER LEE HUGHES v. STATE OF GEORGIA.

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

LC NUMBERS:

2008RCCR1419

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, November 20, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0585 Atlanta, May 06, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SETTENDOWN PUBLIC UTILITY, LLC, et al. v. WATERSCAPE UTILITY, LLC

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0122

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 21, 2013

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.

Lui C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, November 30, 2012

The Court of Appeals hereby passes the following order:

A13D0122. SETTENDOWN PUBLIC UTILITY, LLC, et al. v. WATERSCAPE UTILITY, LLC.

On October 8, 2012, the trial court entered an order granting Waterscape Utility's motion to disqualify George Butler from representing a number of the defendants in this case because he had previously represented Waterscape Utility and his representation included issues involving the sewer plant at issue in this case. Settendown Public Utility, LLC, Ken Curren, Camella Curren, and Waterscape Services, L.L.C., seek discretionary review of this order. However, we lack jurisdiction.

The order disqualifying counsel is an interlocutory order. See *Cherry v. Coast House, Ltd.*, 257 Ga. 403, 404 (2) (359 SE2d 904) (1987); *Ewing Holding Corp. v. Egan-Stanley Investments*, 154 Ga. App. 493, 495-496 (1) (268 SE2d 733) (1980). Thus, in order to obtain appellate review, the appellants were required to follow the interlocutory appeal procedure set forth in OCGA § 5-6-34 (b) and to obtain a certificate of immediate review. While it appears from the record that they attempted to obtain such a certificate, they have not included a certificate of immediate review with their application. Their failure to do so deprives us of jurisdiction to consider the application for appeal. Accordingly, this application for discretionary review is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/30/2012

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

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

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 06, 2012

The Court of Appeals hereby passes the following order

A13D0123. RAYNARD JACKSON v. HAROLD T. POUNDERS d/b/a METROPOLITAN AVENUE PARTNERS, LLC et al .

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

LC NUMBERS:

2010CV194960

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 06, 2012.

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

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

Kelly K. O. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 06, 2012

The Court of Appeals hereby passes the following order:

A13D0124. MICHAEL RAY COFFEE v. THE STATE.

On September 18, 2012, the trial court ordered that the clerk of superior court return prison inmate Michael Ray Coffee's Request to Proceed in Forma Pauperis to him. The trial court indicated that Coffee's request was a re-filing of a previous request, which the court had previously denied. Coffee seeks discretionary review of the trial court's order of September 18, 2012. We lack jurisdiction.

First, Coffee's application for discretionary appeal was docketed in this Court on November 9, 2012, 52 days after the entry of the order he seeks to appeal. An application for discretionary appeal must be filed within 30 days of the order on appeal. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Therefore, Coffee's application is untimely.

Second, although Coffee has not included with his application materials the motion that led to the trial court's order, the trial court has indicated that Coffee's request sought reconsideration of the court's earlier order. The denial of a motion for reconsideration, however, is not directly appealable. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). And the filing of such a motion does not extend the time for appealing the underlying judgment – here, the order denying the request to proceed in forma pauperis. Coffee's application therefore, is untimely as to the order denying his request to proceed in forma pauperis, and is untimely as well as invalid as to the order of September 18, 2012. Accordingly, we lack jurisdiction to consider this appeal, which is hereby *DISMISSED*.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/06/2012

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

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

Holly K. D. Loma, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 05, 2012

The Court of Appeals hereby passes the following order:

A13D0125. JAMES W. PRICE v. CHRISTOPHER BROWN, et al.

James W. Price seeks review of several orders, including the superior court's September 12, 2012, order granting summary judgment to defendant GEICO.[1] Based on the limited information available at this time, the September 12 order appears to be subject to direct appeal because it granted summary judgment and because the trial court certified it as final pursuant to OCGA § 9-11-54 (b). See OCGA § 9-11-56 (h); OCGA § 9-11-54 (b).

We will grant an otherwise timely application for discretionary appeal if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED, and Price shall have ten days from the date of this order to file a notice of appeal with the trial court. If Price has already filed a notice of appeal in the trial court, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

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[1] Price filed a "Notice of Appeal" in the Supreme Court. The Supreme Court docketed the filing as an application for discretionary appeal. Compare OCGA § 5-6-37 (notices of appeal are filed in the trial court) and OCGA § 5-6-35 (d) (applications for discretionary appeal are filed in the appellate court). In addition, because jurisdiction appeared to be proper in the Court of Appeals, the Court transferred the matter here.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/05/2012

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

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

Kelly K. O. Loarca, *Clerk.*

FILED IN OFFICE
NOV 09 2012
CLERK, COURT OF
APPEALS OF GEORGIA

SUPREME COURT OF GEORGIA
Case No. S13D0118

Atlanta, October 24, 2012

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2012 NOV -9 PM 4:36
COURT ADMINISTRATOR
COURT OF APPEALS OF GA

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JAMES W. PRICE v. CHRISTOPHER BROWN et al.

From the State Court of DeKalb County.

Applicant filed this pro se appeal from, among others, the order granting summary judgment to one of the insurer defendants from which he sought underinsured/uninsured motorist coverage. As there appears to be no basis for jurisdiction in this Court, the application hereby is transferred to the Court of Appeals.

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.

Lui C. Fulton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, November 27, 2012

The Court of Appeals hereby passes the following order:

A13D0126. BRIAN KEITH REDMAN v. THE STATE.

A jury found Brian Keith Redman guilty of aggravated child molestation, child molestation, and attempted child molestation. The trial court entered a final disposition on July 1, 2003, and this Court affirmed Redman's conviction in 2006. *Redman v. State*, 281 Ga. App. 605 (636 SE2d 680) (2006). On September 9, 2010, the trial court entered an order denying Redman's "Motion Declaring Adjudication of Sentence for Aggravated Child Molestation, etal to be 'A Mere Nullity' in Violation of OCGA Sections 17-2-2, etc." The trial court specifically found that Redman's claims were barred by time and without merit. Over two years later, on October 11, 2012, Redman filed a pro se application for discretionary appeal.[1] However, we lack jurisdiction to consider the application.

To be timely, an application for discretionary appeal must be filed within 30 days of the entry of the order at issue. See OCGA § 5-6-35 (d). Here, Redman is attempting to challenge an order entered by the trial court two years ago. We, therefore, lack jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of O.C.G.A. § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, this application is hereby DISMISSED as untimely.

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[1] Redman initially filed his application in the Supreme Court, but it was transferred to this Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 11/27/2012

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

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

Holly K. D. Sparrow, *Clerk.*

FILED IN OFFICE
NOV 09 2012
CLERK, COURT OF
APPEALS OF GEORGIA

SUPREME COURT OF GEORGIA
Case No. S13D0173

Atlanta October 24, 2012

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BRIAN KEITH REDMAN v. THE STATE

From the Superior Court of Bartow County.

Because applicant was convicted of child sexual offenses, not murder, see Redman v. State, 281 Ga. App. 605 (636 SE2d 680) (2006), and because there appears to be no basis for jurisdiction in the Supreme Court for his appeal from the order denying his motion to declare his sentence a nullity, this application for discretionary appeal hereby is transferred to the Court of Appeals.

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.

Sue C. Fulton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0866 Atlanta, June 03, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOHN ELMORE, JR. v. MARK BUTLER, COMMISSIONER, GEORGIA DEPARTMENT OF LABOR et al

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0127

RECEIVED IN OFFICE
2013 JUN 19 PM 3:28
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 18, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, February 06, 2013

The Court of Appeals hereby passes the following order

A13D0127. JOHN ELMORE, JR., v. MARK BUTLER, COMMISSIONER, GEORGIA DEPARTMENT OF LABOR et al .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 06, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 06, 2012

The Court of Appeals hereby passes the following order

A13D0127. JOHN ELMORE, JR., v. MARK BUTLER, COMMISSIONER, GEORGIA DEPARTMENT OF LABOR et al .

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

LC NUMBERS:

2012CV216250

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 06, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 13, 2012

The Court of Appeals hereby passes the following order

A13D0128. ASPHALT REFINING & TECHNOLOGY COMPANY, LLC et al v. EDWIN O. PEREZ.

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

LC NUMBERS:

12CV02674

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 13, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 07, 2012

The Court of Appeals hereby passes the following order

A13D0129. IN THE INTEREST OF: E. D. T., A CHILD (MOTHER) .

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

LC NUMBERS:

12JV780

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 07, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 03, 2012

The Court of Appeals hereby passes the following order

A13D0130. IN THE INTEREST OF: B. K., A CHILD .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

2005C149

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 03, 2012.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 07, 2012

The Court of Appeals hereby passes the following order:

A13D0131. CHARLES OLIVER WILLIAMSON, III v. SUSAN MARIE WILLIAMSON.

Charles and Susan Williamson divorced in 2009. Pursuant to the final divorce decree, the parties were given joint custody of their two minor daughters, and Charles was ordered to pay child support. He later petitioned to modify the custody and support arrangements. The trial court entered an order increasing his parenting time and decreasing his support obligation. Charles applied to this Court for discretionary review, seeking to challenge only the child support provisions of the trial court's order.

Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, when the obligation to pay child support arises from a prior divorce proceeding, child support is a form of alimony. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010); *Jones v. Jones*, 280 Ga. 712, 715-716 (2) (632 SE2d 121) (2006). Jurisdiction over actions to modify a divorce decree's child support provisions lies in the Supreme Court. See *Stowell v. Huguenard*, 288 Ga. 628 (706 SE2d 419) (2011). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/07/2012

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 11, 2012

The Court of Appeals hereby passes the following order

A13D0132. DANNY S. BARNETT v. GEORGIA DEPT. OF LABOR 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.

LC NUMBERS:

12CV00720

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 11, 2012.

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

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

Kelly K. O. Loarca , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0570 Atlanta, April 29, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DARRYL WALKER v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0133

RECEIVED IN OFFICE
2013 MAY 17 PM 12:27
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA
pb

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 14, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, December 07, 2012

The Court of Appeals hereby passes the following order

A13D0133. DARRYL WALKER v. THE STATE .

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

LC NUMBERS:

2000RCCR00645

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 07, 2012.

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

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

Kelly K. O. Loarca , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 11, 2012

The Court of Appeals hereby passes the following order:

A13D0134. IN RE: GARY CREWS, WARD.

Gary Crews has filed an application for discretionary appeal seeking review of a superior court order that affirmed the probate court's denial of his "Petition For Restoration of an Individual Formerly Found To Be In Need of a Guardian." However, no application is required to appeal from a decision of the superior court reviewing a decision of the probate court. See OCGA § 5-6-35 (a) (1); *Phillips v. State*, 261 Ga. 190, 190-191 (402 SE2d 737) (1991); *In re Estate of Taylor*, 270 Ga. App. 807 n. 1 (608 SE2d 299) (2004). Because the superior court order is directly appealable, this application is GRANTED pursuant to OCGA § 5-6-35 (j). Applicant 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, 12/11/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 05, 2012

The Court of Appeals hereby passes the following order

A13D0135. EMMETT NEW et al v. THURGOOD CUSTOM HOMES, INC.

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

LC NUMBERS:

11CV3907

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 05, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 19, 2012

The Court of Appeals hereby passes the following order

A13D0136. BJ'S WHOLESALE CLUB et al v. WILLIAM BRYANT.

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

LC NUMBERS:

12CV1819

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 19, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 13, 2012

The Court of Appeals hereby passes the following order

A13D0137. CHARTER HR, INC., et al v. KRYSTAL PERRY.

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.

LC NUMBERS:

2012V0109

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 13, 2012.

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

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

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 13, 2012

The Court of Appeals hereby passes the following order:

A13D0138. WAYNE LEON MURRAY v. THE STATE.

Wayne Leon Murray was found guilty of aggravated assault with intent to rape, attempted aggravated child molestation, two counts of child molestation, and two counts of cruelty to children in the first degree. This Court affirmed his convictions on September 11, 2008. *Murray v. State*, 293 Ga. App. 516 (667 SE2d 382) (2008). In November 2011, Murray filed a motion to correct a void and illegal sentence, in which he argued that some of the offenses should have been merged as a matter of fact. The trial court denied this motion on November 17, 2011. Nearly a year later, Murray filed this application for discretionary review. We lack jurisdiction on two grounds.

First, a direct appeal lies from the denial of a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). Murray's merger argument, however, is a challenge to his convictions, not to his sentence. See *Williams v. State*, 287 Ga. 192, 193-194 (695 SE2d 244) (2010). Because he has not raised a valid void-sentence claim, Murray's appeal is subject to dismissal. See *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). Additionally, both an application for a discretionary appeal and a direct appeal must be filed within 30 days of entry of the order or judgment to be appealed. See OCGA §§ 5-6-35 (d), 5-6-38 (a). We lack jurisdiction to consider an untimely appeal. See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998). Because Murray's application was filed nearly a year after entry of the court's order, we lack jurisdiction to consider it. Murray's application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/13/2012

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

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

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 12, 2012

The Court of Appeals hereby passes the following order

A13D0139. DANIEL ERIC COBBLE v. CLAY TATUM.

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

LC NUMBERS:

2011CA37668

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 12, 2012.

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

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

Holly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 19, 2012

The Court of Appeals hereby passes the following order

A13D0140. DEBORAH JEAN PADEN RICHARDS et al v. JUANITA RICHARDS, A/K/A JUANITA SEE et al .

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

LC NUMBERS:

2011CV196556

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 19, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

FILED IN OFFICE

NOV 20 2012

CLERK, COURT OF
APPEALS OF GEORGIA

SUPREME COURT OF GEORGIA
Case No. S13D0213

Atlanta October 31, 2012

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2012 NOV 20 PM 4:02
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DEBORAH JEAN PADEN RICHARDS et al. v. JUANITA RICHARDS, a/k/a SEE et al.

From the Superior Court of Fulton County.

Applicant seeks to invoke this Court's jurisdiction over cases involving equity and extraordinary remedies. However, the fee order at issue stems from a case in which applicant sought a declaration that she was the wife of Respondent's deceased husband; such a request does not constitute an extraordinary remedy within the meaning of Ga. Const. of 1983, Art. VI, Sec. VI, Para. III. Spence v. Miller, 176 Ga. 96 (167 SE2d 188) (1932). Additionally, the trial court's implicit denial of equitable relief was ancillary to the legal determination that the requirements for a valid marriage did not exist, and thus, the application fails to invoke this Court's jurisdiction over cases involving equity. Redfearn v. Huntcliff Homes Assn., Inc., 271 Ga. 745 (524 SE2d 464) (1999). Therefore, the Court hereby directs that the application be transferred to the Court of Appeals.

All the Justices concur.

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.

Sue C. Fulton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, February 25, 2013

The Court of Appeals hereby passes the following order:

A13D0141. KALENDAR ICOZ v. COMMERCIAL CABINETRY OF GEORGIA, et al.

On December 19, 2012, we dismissed Kalendar Icoz's application for discretionary appeal as untimely. Icoz has filed a motion for reconsideration, and has provided documentation showing that his application was timely filed.

Given this new information, we hereby GRANT Icoz's motion for reconsideration. The December 19, 2012, order dismissing his application is VACATED, and the application is REINSTATED.

After full consideration of the merits of Icoz's application for discretionary review, however, we hereby DENY the application.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/25/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 19, 2012

The Court of Appeals hereby passes the following order:

A13D0141. KALENDAR ICOZ v. COMMERCIAL CABINETRY OF GEORGIA, et al.

Kalendar Icoz seeks discretionary review of the superior court's October 19, 2012, order dismissing his appeal from an order of the State Board of Workers' Compensation. We lack jurisdiction because Icoz's application is untimely.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Icoz filed his application on November 20, 2012, which was 32 days after entry of the order he seeks to appeal.[1] Therefore, his application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/19/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar, *Clerk.*

[1] The 30th day following the trial court's order fell on Sunday, November 18, 2012, so the application was due the following Monday, November 19, 2012. See OCGA § 1-3-1 (d) (3).

Court of Appeals
of the State of Georgia

ATLANTA, December 17, 2012

The Court of Appeals hereby passes the following order

A13D0142. CLARK K. HINKLE v. TRUSTMARK NATIONAL BANK.

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.

LC NUMBERS:

2012CV1008

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 17, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 19, 2013

The Court of Appeals hereby passes the following order

A13D0143. CROSS AND CROWN DAY SCHOOL, INCORPORATED v. CROSS & CROWN LUTHERAN CHURCH OF CHAMBLEE GEORGIA, INC.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 19, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 14, 2012

The Court of Appeals hereby passes the following order

A13D0143. CROSS AND CROWN DAY SCHOOL, INCORPORATED v. CROSS & CROWN LUTHERAN CHURCH OF CHAMBLEE GEORGIA, INC.

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

LC NUMBERS:

12CV1641

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 14, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 18, 2012

The Court of Appeals hereby passes the following order

A13D0144. DONG AN CHO v. MOUNTAIN SWEET WATER INC..

Upon consideration of the APPELLANT'S motion FOR PERMISSION TO WITHDRAW THE APPEAL in the above styled case, it is ordered that the motion is hereby GRANTED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 18, 2012.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 20, 2012

The Court of Appeals hereby passes the following order:

A13D0145. MARIA DEL CARMEN MANNONE v. GREGORY ALLEN EHLER, et al.

Maria Del Carmen Mannone, the mother of the minor child at issue in this custody dispute, seeks appellate review of the juvenile court's "final order."[1]

Pursuant to OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e), an application for discretionary review must include a stamped "filed" copy of the order being appealed. Although Mannone included a copy of the juvenile court's order with her application, it was not a stamped "filed" copy. Accordingly, we are unable to determine whether her application was filed within 30 days of the order she challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of the entry of the order).

As the applicant, Mannone bears the burden of establishing that her application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information she provided with her application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of O.C.G.A. § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, this application is hereby DISMISSED.

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[1] Mannone's filing is titled "Notice of Appeal," but was docketed as an application for discretionary appeal because it was filed in this Court rather than in the trial court. Compare OCGA § 5-6-37 (notices of appeal are filed in the trial court) and OCGA § 5-6-35 (d) (applications for discretionary appeal are filed in the appellate court).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/20/2012

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

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

Holly K. D. Loarca, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 19, 2012

The Court of Appeals hereby passes the following order

A13D0146. IN THE INTEREST OF: C. L., C. E. AND E. E., CHILDREN (MOTHER) .

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

LC NUMBERS:

1201020 1201021 1201022

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 19, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 19, 2012

The Court of Appeals hereby passes the following order

A13D0147. IN THE INTEREST OF: C. D. L., A. C. E., AND E. A. E., CHILDREN (GRANDMOTHER) v. STATE OF GEORGIA .

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

LC NUMBERS:

1201020 1201021 1201022

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 19, 2012.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 21, 2012

The Court of Appeals hereby passes the following order:

A13D0148. RICHARD PATRICK OWENS, III v. JENNIFER NOELLE BROWN.

Richard Patrick Owens, III filed this application for discretionary appeal from the trial court's order dismissing his petition for legitimation, custody, and child support. Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including . . . awarding or refusing to change child custody" are directly appealable. The order dismissing Owens's petition was directly appealable under OCGA § 5-6-34 (a) (11) "as it involved the establishment of legal custody over [the] child." *Caldwell v. Meadows*, 312 Ga. App. 70, 77 (4) (717 SE2d 668) (2011).

This Court will grant an otherwise timely discretionary application if the lower court's order is directly appealable and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Owens shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/21/2012

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

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

Holly K. D. Loma, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 13, 2012

The Court of Appeals hereby passes the following order:

A13D0149. RODERICK HOWARD v. THE STATE.

Roderick Howard was convicted of burglary. This Court affirmed his conviction at *Howard v. State*, 227 Ga. App. 5 (488 SE2d 489) (1997). Howard has filed an application in which he purports to challenge an order denying his motion for an out-of-time appeal. However, there is no order subject to appeal to this Court contained in the application. Moreover, the contentions raised by Howard in his motion were given due consideration and decided against him in his first appeal. "He is not entitled to another bite at the apple by way of a second appeal." *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001). Accordingly, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/13/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 19, 2012

The Court of Appeals hereby passes the following order

A13D0150. DERRICK JEROME MAXEY v. THE STATE.

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

LC NUMBERS:

2002SUCR632

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 19, 2012.

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

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

Kelly K. O. Spencer , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0712 Atlanta, May 20, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

VERNON E. CREWS v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0151

RECEIVED IN OFFICE
2013 JUN -6 PM 12:27
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 05, 2013

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.

Lui C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, December 27, 2012

The Court of Appeals hereby passes the following order

A13D0151. VERNON E. CREWS v. THE STATE.

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

LC NUMBERS:

03CR21

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 27, 2012.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 14, 2013

The Court of Appeals hereby passes the following order

A13D0152. WENDY SAMPSON v. WELLS FARGO BANK, N.A. .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 14, 2013.

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

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

Hally K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 28, 2012

The Court of Appeals hereby passes the following order

A13D0152. WENDY SAMPSON v. WELLS FARGO BANK, N.A. .

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

LC NUMBERS:

12CV3204

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, December 28, 2012.

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

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

Kelly K. O. Spanos , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0876 Atlanta, June 17, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JAMES E. THOMPSON v. THE STATE

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 writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A13D0153

RECEIVED IN OFFICE
2013 JUL 15 PM 4:28
CLERK'S COURT OF APPEALS
COURT OF APPEALS

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta July 12, 2013

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.

Lui C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, December 21, 2012

The Court of Appeals hereby passes the following order:

A13D0153. JAMES E. THOMPSON v. THE STATE.

James E. Thompson seeks discretionary review of several superior court orders, including one that revoked his probation and two that denied and dismissed various pro se motions. Of the orders Thompson challenges, the most recent order was entered on July 26, 2012. Thompson filed his application on November 30, 2012. We lack jurisdiction because Thompson's application is untimely.[1]

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Thompson filed his application 127 days after entry of the most recent order he seeks to appeal. Because his application is untimely, we lack jurisdiction to consider it, and it is hereby DISMISSED.

---

[1] In a letter accompanying his application, Thompson asserts that his ability to seek appellate review was frustrated by the trial court's failure to provide him with timely notice of its rulings. If so, his remedy is to petition the trial court to vacate and re-enter the order as a means of correcting the problem. *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-49 (1) (269 SE2d 426) (1980).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/21/2012

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

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

Holly K. D. Loarca, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 20, 2012

The Court of Appeals hereby passes the following order:

A13D0154. HERMAN KARL KEITH v. THE STATE.

In 2007, Herman Karl Keith pled guilty to aggravated assault, battery and robbery. On October 29, 2012, he filed a pro se application for discretionary appeal with the Supreme Court, asserting claims of an invalid plea and ineffective assistance of counsel. The Supreme Court transferred the case to us, noting that Keith had failed to attach an order from which he was appealing and that he, therefore, failed to show any basis for jurisdiction in the Supreme Court. We lack jurisdiction.

Pursuant to OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e), an application for discretionary review must include a stamped "filed" copy of the order being appealed. Here, Keith has not included any order in his application. Accordingly, we are unable to determine whether his application was filed within 30 days of the order(s) he challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of the entry of the order).

As the applicant, Keith bears the burden of establishing that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Without the trial court's order, we have nothing to review. This application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/20/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

SUPREME COURT OF GEORGIA
Case No. S13D0295

Atlanta November 15, 2012

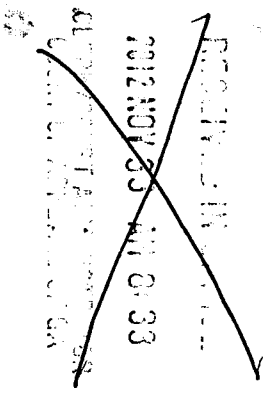
The Honorable Supreme Court met pursuant to adjournment.

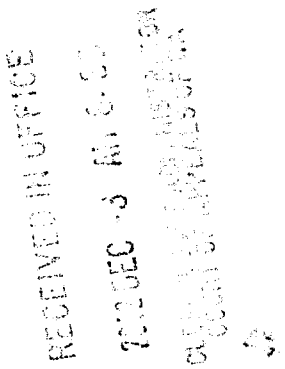
The following order was passed:

HERMAN KARL KEITH v. THE STATE.

From the Superior Court of Fulton County.

In 2007 applicant pled guilty to aggravated assault, battery and robbery. He filed this application for discretionary appeal asserting invalid plea and ineffective assistance of counsel, but attaches no order from which he is appealing. As he fails to show any basis for jurisdiction in this Court, the appeal hereby is transferred to the Court of Appeals.





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.

Sui C. Fulton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, December 31, 2012

The Court of Appeals hereby passes the following order:

A13A0155. MILTON LEE TERRY v. THE STATE.

Milton Lee Terry, defendant in this criminal case, filed a pro se motion for out-of-time appeal. The trial court denied Terry's motion, and he filed this appeal. The trial court entered its order on June 25, 2012, and Terry filed his notice of appeal on August 10, 2012.

A trial court's order denying an out-of-time appeal is subject to direct appeal. See *Rowland v. State*, 264 Ga. 872, 876 (2) (452 SE2d 756) (1995). However, a notice of appeal must be filed within 30 days of the court's entry of the order. See id.; see also OCGA § 5-6-38 (a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction upon this Court. *Couch v. United Paperworkers Intl. Union*, 224 Ga. App. 721 (482 SE2d 704) (1997). Terry filed his notice of appeal 46 days after entry of the order he seeks to appeal. His appeal is therefore untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/31/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 01, 2013

The Court of Appeals hereby passes the following order:

A13D0155. DON ROBERT FAIRCLOTH v. THE STATE.

On December 31, 2012, this Court dismissed Don Robert Faircloth's application for discretionary appeal. We noted that Faircloth had neither identified nor included any specific trial court order that he wished to appeal. On January 18, 2013, Faircloth filed a motion for reconsideration, attaching copies of judgments of conviction and sentences entered against him in 1990 and 1999. Faircloth's motion lacks merit for the following reasons.

First, it is untimely. "Motions for reconsideration must be physically received in the Court for filing within 10 days of the order or judgment for which reconsideration is sought." Court of Appeals Rule 37 (a). Faircloth's motion for reconsideration was not received until 18 days after our dismissal of his application.

In addition, motions for reconsideration will be granted "only when it appears that the Court overlooked a material fact in the record, a statute or a decision which is controlling as authority and which would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority." Court of Appeals Rule 37 (e). Faircloth has not shown that any of these bases exists. Although he has attempted to rectify the problem with his application by attaching orders that he wishes to appeal, "a motion for reconsideration or attachment thereto, like a brief, cannot be used as a procedural vehicle for adding evidence or fact representations to the record." *Culberson v. Fulton-DeKalb Hosp. Authority*, 201 Ga. App. 347 (411 SE2d 75) (1991).

Finally, even if Faircloth had included the trial court orders with his original application, we would lack jurisdiction to consider them. An application for

discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). We lack jurisdiction to consider an untimely application. *Hill*, supra. The orders that Faircloth wishes to appeal were entered years ago.

For these reasons, this motion for reconsideration is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/01/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 13, 2012

The Court of Appeals hereby passes the following order:

A13D0156. STEVEN M. WANDERMAN v. JACQUELINE WANDERMAN.

Steven M. Wanderman filed this application for discretionary appeal in the Supreme Court, which transferred the case here.[1] Wanderman contends that the trial court erroneously issued a Writ of Fieri Facias but states that he has not been served with an order directing its issuance. Because there is no order subject to appeal to this Court contained in the application, there is no basis for appellate jurisdiction. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/13/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

[1] The Supreme Court concluded that the parties' original divorce action was dismissed without prejudice. Thus, the parties were still married. Accordingly, the case did not invoke its jurisdiction over cases involving divorce and alimony.

SUPREME COURT OF GEORGIA
Case No. S13D0245
A13D0156

Atlanta November 15, 2012

FILED IN OFFICE
DEC 03 2012
CLERK, COURT OF
APPEALS OF GEORGIA

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

STEVEN M. WANDERMAN v. JACQUELINE WANDERMAN.

From the Superior Court of Fayette County.

Applicant seeks to appeal the issuance of a writ of fieri facias (for which no order has been entered). But as the original divorce action was dismissed without prejudice and the parties still are married, the case does not invoke the Court's jurisdiction over cases involving divorce and alimony. Ga. Const. of 1983, Art. VI, Sec. VI, Para. III (6). Therefore, the application for discretionary appeal hereby is transferred to the Court of Appeals.

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.

Sui C. Fulton, Chief Deputy Clerk

RECEIVED IN OFFICE
2012 DEC -3 AM 8:30
CLERK, COURT OF APPEALS OF GA

Court of Appeals of the State of Georgia

ATLANTA, December 21, 2012

The Court of Appeals hereby passes the following order:

A13D0157. RODERICK MCKISSICK v. THE STATE.

Roderick McKissick was convicted of murder and other crimes. Following the denial of his extraordinary motion for new trial, McKissick filed in this Court an "Application for a Certificate of Probable Cause," which was docketed as an application for discretionary appeal.

Under our Constitution, the Supreme Court has appellate jurisdiction over "[a]ll cases in which a sentence of death was imposed or could be imposed." See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8). Because a penalty of death can be imposed for the crime of murder, jurisdiction is proper in the Supreme Court. See OCGA § 17-10-30 (b); *Neal v. State*, 290 Ga. 563, 572 (722 SE2d 765) (2012) (Hunstein, C. J., concurring); see also *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984) (directing this Court to transfer "all cases in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder"). Accordingly, McKissick's application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/21/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 08, 2013

The Court of Appeals hereby passes the following order:

A13D0158. JAMES THOMAS PEEBLES v. THE STATE.

By order entered on December 28, 2012, this Court dismissed James Thomas Peebles's December 1, 2012 pro se application for discretionary appeal because he failed to include a stamped "filed" copy of the order he was seeking to appeal.[1] On January 25, 2013, Peebles filed a motion for reconsideration. We deny Peebles's motion for two reasons.

First, under Court of Appeals Rule 37 (b) provides that motions for reconsideration "must be physically received in the Court for filing within 10 days of the order or judgment for which reconsideration is sought." Because Peebles's motion for reconsideration was filed 28 days after the underlying order, the motion is untimely, and we lack jurisdiction to consider an untimely application for appeal. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith").

Second, the record still does not show that we have jurisdiction in this case. The trial court was required to provide Peebles notice of its ruling. See OCGA § 15-6-21 (c); *Miranda v. Stewart*, 312 Ga. App. 290, 292 (718 SE2d 123) (2011). If Peebles's right to seek appellate review was frustrated due to the trial court's failure to send him a copy of the order, his remedy is to petition the trial court to vacate and

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[1] The trial court's order was signed on October 16, 2012, and we ordered Peebles to submit a stamped "filed" copy so we could determine whether his appeal was timely, but Peebles failed to comply with our order.

re-enter the order as a means of correcting the problem. See id.; *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). The re-entry of the order will begin anew the time for seeking appellate review. See *Cambron*, supra. For the foregoing reasons, Peebles's motion for reconsideration is therefore DENIED.

Peebles has also filed "Leave to Enter Writ of Mandamus" in an attempt to force the trial court to send him a stamped "filed" copy of the order. This motion is DENIED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/08/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 28, 2012

The Court of Appeals hereby passes the following order:

A13D0158. JAMES THOMAS PEEBLES v. THE STATE.

On December 1, 2012, James Thomas Peebles filed a pro se application for discretionary appeal, asserting that the trial court erred in denying his extraordinary motion for a new trial and motion in arrest of judgment. The order attached to the application was signed on October 16, 2012, but was not stamped "filed," and, despite the fact that this Court ordered Peebles to submit a stamped, "filed" copy of the order, he has not done so. We lack jurisdiction.

Pursuant to OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e), an application for discretionary review must include a stamped "filed" copy of the order being appealed. Although Peebles included a copy of the trial court's order with his application, it was not a stamped "filed" copy. Accordingly, we are unable to determine whether his application was filed within 30 days of the order he challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of the entry of the order).

As the applicant, Peebles bears the burden of establishing that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of O.C.G.A. § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/28/2012

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

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

Holly K. O. Loma, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 28, 2012

The Court of Appeals hereby passes the following order:

A13D0159. YASMINE ENTERTAINMENT HALL et al. v. CITY OF MARIETTA.

Upon review, the application for discretionary appeal filed by Yasmine Entertainment Hall and Shadia Restaurant, LLC, is hereby DENIED. The City of Marietta's motion for sanctions for the filing of a frivolous application is also DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/28/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 21, 2012

The Court of Appeals hereby passes the following order:

A13D0160. ALEXANDER T. SMITH v. THE STATE.

On April 12, 2010, Alexander T. Smith was found guilty of two counts of sale of cocaine. On October 3, 2012, Smith filed a "Motion for Relief" in the Supreme Court. The Supreme Court docketed the filing as an application for discretionary appeal and transferred the case to this Court. In his motion, Smith requests that the Court set aside his conviction, modify his sentence, or grant a new trial. However, nothing in the application materials shows that Smith sought or was denied such relief below. In the absence of a ruling by the trial court, we have nothing to review. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010); see also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009) ("Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court.").

Pursuant to OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e), an application for discretionary review must include a stamped "filed" copy of the order being appealed. Although Smith included a copy of the final disposition, it was not a stamped "filed" copy.[1] In any event, the final disposition was filed on April 12, 2012, therefore, Smith's application is untimely as to that order.

As the applicant, Smith bears the burden of establishing that his application

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[1] On December 6, 2012, this Court ordered Smith to supplement his application within 10 days with a stamped "filed" copy of the order to be appealed. We noted that failure to comply with this directive would result in dismissal of the application. To date, Smith has not done so.

should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, as Smith has provided nothing for us to review, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/21/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. A. Sparrow, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 20, 2012

The Court of Appeals hereby passes the following order:

A13D0161. EAGLE REALTY, LLC, et al v. SEESAW CONSTRUCTION, LLC, et al.

In this application for discretionary appeal, Eagle Realty, LLC, and Stephen Eagleton, plaintiffs in the case below, seek review of the trial court's order granting a directed verdict to the defendants.

From the limited information included in the application, the trial court's order appears to be the final order in the case, and the discretionary appeal requirements do not appear to apply. Thus, based on the information available at this time, the order appears to be subject to direct appeal. We will grant an otherwise timely application for discretionary appeal if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED, and the applicants shall have ten days from the date of this order to file a notice of appeal with the trial court. If they have already filed a notice of appeal in the trial court, they need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/20/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 04, 2013

The Court of Appeals hereby passes the following order

A13D0162. MATTHEW FORD v. THE STATE.

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

LC NUMBERS:

10CR0096

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 04, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, December 11, 2012

The Court of Appeals hereby passes the following order:

A13D0163. TAMARA FERGUSON et al. v. JESSIE L. HOLLAND et al.

Upon review, this application for discretionary appeal is hereby DENIED. Applicants' emergency motion is therefore DISMISSED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/11/2012
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 08, 2013

The Court of Appeals hereby passes the following order

A13D0163. TAMARA FERGUSON et al v. JESSIE L. HOLLAND et al .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 08, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 09, 2013

The Court of Appeals hereby passes the following order:

A13D0164. VIJAY K. VIG v. VIDY ASHANKAR RANGASWAMI.

This case began as a dispossessory proceeding in magistrate court. Following an adverse ruling, Defendant Vijay K. Vig appealed the magistrate court's decision to the state court. After a jury trial, the court entered judgment for the plaintiff in the amount of $1,400 and awarded $4,000 in attorney fees to the plaintiff. Vig filed a motion for reconsideration, a motion for new trial, and a motion for sanctions and stay of proceedings, in which he alleged that the plaintiff had filed a summons of garnishment against him. In an order dated November 7, 2012, the trial court amended its judgment to decrease the rent owed to $1,000, and denied Vig's motion for reconsideration, motion for new trial, and motion for sanctions and stay of proceedings. Vig filed this application for discretionary appeal on December 10, 2012. We lack jurisdiction.

Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. See *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). The underlying subject matter of this discretionary application is a dispossessory judgment. OCGA § 44-7-56, which governs dispossessory actions, requires that an appeal from a dispossessory ruling be filed within seven days of the date judgment was entered.

Even if we were to construe this application as an appeal from the denial the

motion for sanctions and to stay proceedings in the alleged garnishment action,[1] Vig filed his application 33 days after entry of the most recent order he seeks to appeal. The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989).

Because Vig's application is untimely, this Court lacks jurisdiction over this application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/09/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lamar, *Clerk.*

[1] According to the court's order, the plaintiff denied filing a garnishment action, and even though the court found no record of a garnishment filing in the action, the order did direct Vig's bank to unfreeze his account if it had indeed frozen the account in connection with the case.

Court of Appeals
of the State of Georgia

ATLANTA, April 10, 2013

The Court of Appeals hereby passes the following order

A13D0164. VIJAY K. VIG v. VIDY ASHANKAR RANGASWAMI.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 10, 2013.

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

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

Holly K. O. Ipanova , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 07, 2013

The Court of Appeals hereby passes the following order:

A13D0165. GARY L. KING v. HERITAGE HEALTHCARE OF MOULTRIE, LLC.

Gary L. King filed a notice of appeal from the superior court's order denying his motion to vacate a final arbitration award. On November 19, 2012, the trial court dismissed King's appeal because he had failed to pay the appeal-filing fee. King then filed this application for discretionary review.

"[A] trial court's order dismissing a properly filed direct appeal is itself subject to a direct appeal." *American Medical Security Group v. Parker*, 284 Ga. 102, 103 (2) (663 SE2d 697) (2008); see also *Castleberry's Food Co. v. Smith*, 205 Ga. App. 859, 860 (424 SE2d 33) (1992). We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. King shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal from the order at issue, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/07/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, December 18, 2012

The Court of Appeals hereby passes the following order:

A13D0166. DELROY MCFARLANE v. JAMILA COLEMAN MCFARLANE.

Delroy McFarlane filed a petition against his ex-wife, Jamila McFarlane, to modify the child support, custody, and visitation provisions of the parties' 2006 divorce decree. The trial court issued an order in which it reduced child support, ordered Delroy McFarlane to pay child support and medical expense arrearages, denied a change in custody, and reserved the right to award attorney fees. Delroy McFarlane filed this application for discretionary appeal of the trial court's order.

The issues in this case arise out of the child support and custody provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony. Jurisdiction over actions to modify a divorce decree's child support provisions, therefore, lies in the Supreme Court. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010). Because this matter involves child support modification, we lack jurisdiction over the application, which is hereby TRANSFERRED to the Supreme Court for disposition.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/18/2012

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

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

Holly K. D. Lanoa, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 10, 2013

The Court of Appeals hereby passes the following order:

A13D0167. ARRAIS JULCILEIDE v. AH4R.

The state court entered an order requiring Arrais Julcileide to pay rent into the registry of the court pending final resolution of this dispossessory action. Julcileide then filed this discretionary application seeking to appeal the order. We, however, lack jurisdiction.

The order compelling payment of rent into the court registry is not a final order because the dispossessory action remains pending below. See *Rivera v. Housing Authority of Fulton County*, 163 Ga. App. 648 (295 SE2d 336) (1982). Thus, Julcileide was required to follow the interlocutory application procedures set forth in OCGA § 5-6-34 (b), which includes obtaining a certificate of immediate review from the trial court within the requisite time period. OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Julcileide's failure to comply with the interlocutory appeal procedures deprives us of jurisdiction over this application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/10/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 09, 2013

The Court of Appeals hereby passes the following order:

A13D0168. ORLANDO MATHEWS v. THE STATE.

On November 6, 2012, the trial court denied Orlando Mathews's extraordinary motion for new trial and extraordinary motion in arrest of judgment, and based thereon, denied Mathews's motion for appointment of counsel. Mathews filed an application for discretionary appeal from this order on December 11, 2012. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Mathews filed his application 35 days after entry of the order he seeks to appeal. Therefore, his application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/09/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. A. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 11, 2013

The Court of Appeals hereby passes the following order

A13D0169. CHRISTOPHER MARK PARSON v. THE STATE.

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

LC NUMBERS:

12208

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 11, 2013.

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

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

Kelly K. O. Parson , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 11, 2013

The Court of Appeals hereby passes the following order

A13D0170. CHRISTOPHER NED KELLEY v. MELISSA DAWN COOPER.

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

LC NUMBERS:

2011V259

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 11, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 10, 2013

The Court of Appeals hereby passes the following order:

A13D0171. I. A. GROUP, LTD. CO., et al. v. RMNANDCO, INC., et al.

On December 20, 2012, I. A. Group, Ltd. Co., CX5 Capital Corp., Christopher T. Collins and Stephan Fitch filed this application for discretionary appeal from the trial court's order of November 20, 2012, denying their motion to vacate its order of July 16, 2012, which imposed sanctions upon the applicants. However, on December 10, 2012, these applicants filed an application for interlocutory appeal, in which they challenge the same order and raise the same arguments. Accordingly, this application is dismissed as duplicative.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/10/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 10, 2013

The Court of Appeals hereby passes the following order

A13D0172. VIRGINIA JONES v. AEL FINANCIAL LLC.

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

LC NUMBERS:

11V527

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 10, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 10, 2013

The Court of Appeals hereby passes the following order

A13D0173. CALVIN KING v. WORTH COUNTY BOARD OF EDUCATION.

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.

LC NUMBERS:

2012CV031

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 10, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 22, 2013

The Court of Appeals hereby passes the following order

A13D0174. MOORE'S DISCOUNT FURNITURE, INC., et al v. WILLIAM BLACK.

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

LC NUMBERS:

12CV01353

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 22, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 22, 2013

The Court of Appeals hereby passes the following order

A13D0175. IN RE: W. A. L. D., A CHILD v. STATE OF GEORGIA.

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

LC NUMBERS:

2012JV164

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 22, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 21, 2013

The Court of Appeals hereby passes the following order:

A13D0176. NATHAN FISHER v. THE STATE.

Appellant's motion for reconsideration is DENIED. Appellant's emergency motion is also DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/21/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lawson , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 14, 2013

The Court of Appeals hereby passes the following order:

A13D0176. NATHAN FISHER v. THE STATE.

After entering a plea of guilty in 2000, Nathan Fisher moved to withdraw his plea on August 28, 2000. On September 5, 2000, the trial court entered its order denying his motion to withdraw his guilty plea. David filed an application for discretionary appeal more than 12 years later on December 26, 2012. Although the denial of a motion to withdraw a guilty plea is directly appealable under OCGA § 5-6-35 (j),[1] we lack jurisdiction to consider Fisher's application because it is untimely.

To be timely, an application for discretionary appeal must be filed within 30 days of entry of the order, judgment or decision at issue. OCGA § 5-6-35 (d). Fisher's application was not filed until more than 12 years after entry of the order he seeks to appeal, and it 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, 01/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , Clerk.

[1] See *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008).

Court of Appeals
of the State of Georgia

ATLANTA, February 21, 2013

The Court of Appeals hereby passes the following order:

A13D0176. NATHAN FISHER v. THE STATE.

Appellant's motion for reconsideration is DENIED. Appellant's emergency motion is also DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/21/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 23, 2013

The Court of Appeals hereby passes the following order

A13D0177. KINDRED HOSPITAL ATLANTA v. VERONICA J. BONABY.

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

LC NUMBERS:

2012CV219913

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 23, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 25, 2013

The Court of Appeals hereby passes the following order

A13D0178. PHILLIP R. MCADOO v. MARTA.

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.

LC NUMBERS:

2012CV222776

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 25, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 18, 2013

The Court of Appeals hereby passes the following order

A13D0179. CHERYL SCOTT v. ALLGREEN SERVICES, LLC., et al.

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

LC NUMBERS:

12CV0793

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 18, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 16, 2013

The Court of Appeals hereby passes the following order:

A13D0180. DEXTER L. GARY v. THE STATE.

Dexter L. Gary, who is proceeding pro se, has filed a timely application for discretionary appeal seeking to appeal an order denying his motion to correct a void sentence. 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). Gary's application is therefore GRANTED under OCGA § 5-6-35 (j).

Gary 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, 01/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 16, 2013

The Court of Appeals hereby passes the following order

A13D0181. HARRY CROFT BICKEL, 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.

LC NUMBERS:

01CR19

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 16, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 16, 2013

The Court of Appeals hereby passes the following order

A13D0182. ROBERT STONEY WORTHY v. THE GEORGIA DEPARTMENT OF HUMAN RESOURCES, EX, REL., PATRICK L. BAKER.

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.

LC NUMBERS:

12CV199

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 16, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 23, 2013

The Court of Appeals hereby passes the following order:

A13D0183. RODNEY PETERSON v. THE STATE.

In 2007, Rodney Peterson pled guilty to aggravated assault, obstruction of an officer, and other crimes. He later filed a motion to correct a void sentence, arguing that his aggravated assault and obstruction convictions should have merged.[1] The trial court denied the motion, and Peterson filed this application for discretionary appeal.

An appeal may lie from an order denying a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216 n.1 (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). Peterson's merger argument, however, is a challenge to his convictions, not to his sentence. See *Williams v. State*, 287 Ga. 192 (695 SE2d 244) (2010). Because he has not raised a valid void-sentence claim, we may not consider Peterson's application. See *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010); *Harper*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

[1] As Peterson has not included a copy of his motion, this summary of his argument is taken from the trial court's order.

Court of Appeals
of the State of Georgia

ATLANTA, January 24, 2013

The Court of Appeals hereby passes the following order:

A13D0184. BONNIE WINSLETT v. TERRY GUTHRIE

Bonnie Winslett seeks leave to appeal from the superior court's denial of her motion to set aside a default judgment against her. It appears, however, that an involuntary petition for bankruptcy has been filed against Winslett in the United States Bankruptcy Court for the Middle District of Georgia, Case No. 12-41184. All proceedings against Winslett are automatically stayed pursuant to 11 U. S. C. § 362. See *TW Telecom Holdings Inc. v. Carolina Internet Ltd.*, 661 F.3d 495, 497 (10th Cir. 2011) (Section 362 stays all appeals in proceedings originally brought against the debtor, regardless of whether the debtor is the appellant or appellee). See also American Bankruptcy Institute, 31-1 ABIJ 22 (Feb. 2012) ("It now appears that every circuit court to address the issue of whether the automatic stay provisions of § 362(a) apply to an appeal by a debtor where the debtor was the defendant in the underlying proceeding holds that the stay applies."). Under the circumstances, this application is DISMISSED without prejudice pending the resolution of the bankruptcy proceeding or lifting of the automatic stay. Winslett may re-instate her application by filing another application within 30 days after the bankruptcy stay is lifted or relief from the stay is provided by the bankruptcy court. See *Hicks, Massey & Gardner, LLP v. Shuler*, 2006 Ga. LEXIS 994, at *1 (Ga. Nov. 20, 2006); *Communications Marketing & Distrib. Svcs., Inc. v. MCI Worldcom Telecommunications Corp.*, 257 Ga. App. 330 (571 SE2d 399) (2002).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 01/24/2013

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

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

Holly K. B. Loarca, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 25, 2013

The Court of Appeals hereby passes the following order

A13D0185. DAVID L. TOLBERT v. THE STATE.

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

LC NUMBERS:

2007C38960

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 25, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 16, 2013

The Court of Appeals hereby passes the following order

A13D0185. DAVID L. TOLBERT v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 16, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0963 Atlanta, June 03, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LEOPOLD O. ENWONWU v. WELLS FARGO BANK, N. A.

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0186

RECEIVED IN OFFICE
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CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 18, 2013

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, February 22, 2013

The Court of Appeals hereby passes the following order

A13D0186. LEOPOLD O. V. ENWONWU v. WELLS FARGO BANK, N. A..

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 22, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 01, 2013

The Court of Appeals hereby passes the following order:

A13D0186. LEOPOLD O. V. ENWONWU v. WELLS FARGO BANK, N. A.

This case began as a dispossessory proceeding in magistrate court. Upon defendant Leopold O. V. Enwonwu's failure to appear, the magistrate court entered a default judgment granting the writ of possession. Enwonwu appealed to the superior court, which entered a final order dismissing the case on December 7, 2012. Enwonwu filed this application for discretionary appeal on January 7, 2013. We lack jurisdiction.

Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. See *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). The underlying subject matter of this discretionary application is a dispossessory judgment. OCGA § 44-7-56, which governs dispossessory actions, requires that an appeal from a dispossessory ruling be filed within seven days of the date judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999).

Because Enwonwu did not file his application for discretionary appeal within seven days of the superior court's final order, this Court lacks jurisdiction over this application, which is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 02/01/2013

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

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

Holly K. D. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order:

A13D0187. FREDDIE ANDERSON v. ARLENE EMMONS.

On January 8, 2013, Anderson filed a pro se application for discretionary appeal, seeking review of an award of attorney fees and expenses entered against him under OCGA § 9-15-14 (a) and (b). We denied the application. Anderson subsequently hired an attorney and has now filed a motion for reconsideration, asserting that the special master's decision underlying the grant of attorney fees was flawed for a number of reasons not previously asserted in his response to the motion for attorney fees filed in the trial court or in his application for discretionary appeal filed in this Court. Anderson's motion for reconsideration also attaches a number of exhibits not previously provided to the trial court or this Court.

Under Court of Appeals Rule 37 (e), a motion for reconsideration will be granted "only when it appears that the Court overlooked a material fact in the record, a statute or a decision which is controlling as authority and which would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority."[1] Anderson has not shown that any of these bases exist. This Court did not overlook any statute or case law or material fact in the record that would require a different result. Nor did this Court misconstrue or misapply any law or controlling authority.

"A record cannot be supplemented or modified by means of a motion for

---

[1] See *Frazier v. State*, 311 Ga. App. 293, 297-298 (715 SE2d 712) (2011).

reconsideration or an attachment thereto."[2] "Moreover, a motion for reconsideration or attachment thereto, like a brief, cannot be used as a procedural vehicle for adding evidence or fact representations to the record."[3] We thus decline to consider the affidavit and verifications attached to Anderson's motion for reconsideration. Anderson cannot salvage this application on motion for reconsideration by supplementing the application with exhibits and introducing new facts not asserted in his response in the trial court or raised in his application for discretionary appeal. Anderson's motion for reconsideration is therefore DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

[2] *Griffin v. Loper*, 209 Ga. App. 504, 505 (433 SE2d 653) (1993).

[3] *Culberson v. Fulton-DeKalb Hosp. Authority*, 201 Ga. App. 347 (411 SE2d 75) (1991).

Court of Appeals
of the State of Georgia

ATLANTA, February 01, 2013

The Court of Appeals hereby passes the following order

A13D0187. FREDDIE ANDERSON v. ARLENE EMMONS.

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

LC NUMBERS:

11CV8059

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 01, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 30, 2013

The Court of Appeals hereby passes the following order:

A13D0188. DAVID SHANYFELT v. WACHOVIA HOME MORTGAGE.

The superior court entered an order requiring David Shanyfelt to pay rent into the registry of the court pending final resolution of this dispossessory action. Shanyfelt then filed this discretionary application seeking to appeal the order. We, however, lack jurisdiction.

The order compelling payment of rent into the court registry is not a final order because the dispossessory action remains pending below. See *Rivera v. Housing Authority of Fulton County*, 163 Ga. App. 648 (295 SE2d 336) (1982). Thus, Shanyfelt was required to follow the interlocutory application procedures set forth in OCGA § 5-6-34 (b), which include obtaining a certificate of immediate review from the trial court within the requisite time period. OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Shanyfelt's failure to comply with the interlocutory appeal procedures deprives us of jurisdiction over this application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 01/30/2013

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

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

Kelly K. D. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order:

A13D0188. SHANYFELT v. WACHOVIA/WELLS FARGO MORTGAGE CORPORATION.

This Court dismissed David Shanyfelt's discretionary application from a superior court order directing him to pay rent pending resolution of his dispossessory appeal. The basis for the dismissal was that Shanyfelt was required to comply with the interlocutory appeal procedures of OCGA § 5-6-34 (b) because the case remained pending below.

Shanyfelt has moved for reconsideration, arguing that the superior court's order was final because the court ruled that a writ of possession would issue within seven days if Shanyfelt failed to pay the required rent. But absent "the actual entry of a writ of possession," the case was not final below. *Rivera v. Housing Authority of Fulton County*, 163 Ga. App. 648 (295 SE2d 336) (1982). And although it appears that the superior court issued a writ of possession on March 11, 2013, we nonetheless lack jurisdiction to review the interim rent order that Shanyfelt sought to appeal because that order was interlocutory when Shanyfelt filed his application. See *Richardson v. General Motors Corp.*, 221 Ga. App. 583 (472 SE2d 143) (1996). Shanyfelt's motion for reconsideration is hereby DENIED.

Shanyfelt has also filed an emergency motion to stay enforcement of the writ of possession. As Shanyfelt has no pending appeal or application in this Court, the motion is DISMISSED as MOOT.[1]

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[1] We note that Shanyfelt could have filed an application for discretionary appeal from the writ of possession.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/28/2013

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

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

Kelly K. A. Loma , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 07, 2013

The Court of Appeals hereby passes the following order

A13D0189. CONSOLIDATED CONTAINER COMPANY C/O GALLAGHER BASSETT SERVICES v. NOVALIJA TRUMIC.

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

LC NUMBERS:

2012CV2189947

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 07, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 08, 2013

The Court of Appeals hereby passes the following order

A13D0190. CLYDE COPELAND v. FIA CARD SERVICES, N.A..

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

LC NUMBERS:

12A42417

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 08, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 29, 2013

The Court of Appeals hereby passes the following order:

A13D0191. Jerry Larry Collier v. Decatur Housing Authority.

Jerry Larry Collier, acting pro se, sought to file a civil action against Decatur Housing Authority in the State Court of DeKalb County. In connection therewith, Collier submitted an affidavit of poverty that he was unable to pay the costs of the action. In an order entered January 3, 2013, the trial court concluded that Collier's petition as drawn and submitted shows that he "cannot recover under any justiciable issue of fact," and that, therefore, Collier's "Affidavit of Poverty is denied." On January 8, 2013, Collier filed this application for leave to appeal the order.

Given that the trial court's order is based on a "lack of justiciable issue of fact" in the underlying pleading and not on the sufficiency or truth of the affidavit of poverty, the order, in substance, denied filing of Collier's pleading pursuant to OCGA § 9-15-2 (d). And "[a]n order denying filing shall be appealable in the same manner as an order dismissing an action." Id. The order, therefore, is directly appealable, and Collier's application for appeal 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 trial court, which is instructed 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, 01/29/2013

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

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

Holly K. O. Loma, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, January 30, 2013

The Court of Appeals hereby passes the following order:

A13D0192. ERIC JOHNSON v. THE STATE.

Eric Johnson was convicted by a jury in 1996 of armed robbery and other offenses arising from a home invasion. This Court affirmed his conviction on direct appeal in 1997. *Johnson v. State*, 224 Ga. App. XXIX (Case No. A96A2351) (1997). And in 2007, this Court dismissed Johnson's appeal from the trial court's dismissal of his 2006 "Motion to Void Judgment." *Johnson v. State*, 283 Ga. App. XXV (Case No. A07A0350) (2007). On April 27, 2012, this Court affirmed the trial court's denial of Johnson's "Motion in Arrest of Judgment," filed almost 15 years after the entry of his original judgment of conviction. *Johnson v. State*, A12A0282 (decided April 27, 2012).

On November 21, 2012, Johnson filed a pro se application for discretionary appeal with the Supreme Court, asserting that he received ineffective assistance of counsel, that his indictment was flawed, and that the trial court erred in failing to hold a competency hearing. The Supreme Court transferred the case to us. However, nothing in the application materials show that Coleman sought or was denied relief below based on these complaints. In the absence of a ruling by the trial court, we have nothing to review. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010); see also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009) ("Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court.").

Pursuant to OCGA § 5-6-35 (b) & (c) and Court of Appeals Rule 31 (e), an application for discretionary appeal must "specify the order or judgment being appealed" and "include as exhibits to the petition a copy of the order or judgment

being appealed." Here, Johnson has identified no specific trial court order that he wishes to appeal, and the application materials do not even mention a trial court order. Accordingly, we are unable to determine whether his application was filed to appeal a specific court order and, if so, whether it was filed within 30 days of the order he challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of the entry of the order).

As the applicant, Johnson bears the burden of establishing that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Without the trial court's order, we have nothing to review. This application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/30/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lanoue, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 29, 2013

The Court of Appeals hereby passes the following order:

A13D0193. CARA WILLIAMS v. THE STATE.

Cara Williams filed this application for discretionary appeal from the trial court's order denying her motion for an appeal bond. An order denying a motion for an appeal bond may be appealed directly. *Wade v. State*, 218 Ga. App. 377, 378 (1) (461 SE2d 314) (1995); see also *Luke v. State*, 282 Ga. App. 749 (639 SE2d 645) (2006). Accordingly, this application is GRANTED pursuant to OCGA § 5-6-35 (j). Williams shall have ten days from the date of this order to file a notice of appeal, if she has not already done so. 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, 01/29/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 29, 2013

The Court of Appeals hereby passes the following order

A13D0194. JEAN JOCELYN MERILIEN et al v. DENISE MURRAY.

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.

LC NUMBERS:

05CV10382

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 29, 2013.

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

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

Kelly K. O. Loanow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 01, 2013

The Court of Appeals hereby passes the following order

A13D0195. CALVIN D. ERVIN v. THE STATE.

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

LC NUMBERS:

2003CR17

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 01, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, January 30, 2013

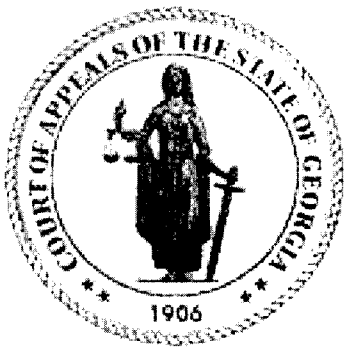
The Court of Appeals hereby passes the following order

A13D0196. MARK A. SMITH v. PATRICIA RICE 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.

LC NUMBERS:

12CV386



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, January 30, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 04, 2013

The Court of Appeals hereby passes the following order:

A13D0197. TERRY L. COLEMAN v. THE STATE.

Terry Coleman pled guilty to eight counts of sale of cocaine and one count of obstruction of an officer, and he was sentenced on February 16, 2011. On January 9, 2013, Coleman filed this pro se application for discretionary appeal, requesting that his plea be set aside because he was under the influence of drugs at the time he pled guilty, he did not comprehend the significance of his plea, and he received ineffective assistance of counsel. However, nothing in the application materials show that Coleman sought or was denied such relief below. In the absence of a ruling by the trial court, we have nothing to review. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010). And to the extent Coleman is asking this Court to rule on the validity of his plea, we note that we are a court for the correction of errors, and we cannot consider issues which were not raised below and ruled on by the trial court. See also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009).

Pursuant to OCGA § 5-6-35 (b) & (c) and Court of Appeals Rule 31 (e), an application for discretionary appeal must "specify the order or judgment being appealed" and "include as exhibits to the petition a copy of the order or judgment being appealed." Here, Coleman has identified no specific trial court order that he wishes to appeal, and the application materials do not even mention a trial court order. Accordingly, we are unable to determine whether his application was filed to appeal a specific court order and, if so, whether it was filed within 30 days of the order he challenges. See OCGA § 5-6-35 (d) (providing that an application must be filed within 30 days of the entry of the order).

As the applicant, Coleman bears the burden of establishing that his application

should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, as Coleman has provided nothing for us to review, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/04/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 04, 2013

The Court of Appeals hereby passes the following order

A13D0198. IN THE INTEREST OF: T. Z. L., A CHILD (FATHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1200305

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 04, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 08, 2013

The Court of Appeals hereby passes the following order

A13D0199. IN THE INTEREST OF: G. L. B. AND R. J. D., CHILDREN (MOTHER) .

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

LC NUMBERS:

12JV0706 12JV0707

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 08, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 07, 2013

The Court of Appeals hereby passes the following order

A13D0200. RONALD ROEBUCK v. THE STATE.

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

LC NUMBERS:

95CR613 95CR612

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 07, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 11, 2013

The Court of Appeals hereby passes the following order

A13D0201. HARRIS COUNTY BOARD OF COMMISSIONERS et al v. JAMES TURNER.

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

LC NUMBERS:

12CV577

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 11, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C0905 Atlanta, June 03, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SABINO P. CRUZ v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0202

RECEIVED IN OFFICE
2013 JUN 19 PM 3:27
CLERK/ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 18, 2013

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.

Lui C. Hilton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, February 06, 2013

The Court of Appeals hereby passes the following order

A13D0202. SABINO P. CRUZ v. THE STATE.

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

LC NUMBERS:

02B0755

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 06, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 01, 2013

The Court of Appeals hereby passes the following order

A13D0203. JOHN O. WALKER v. JASON MEDLIN, WARDEN.

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

LC NUMBERS:

12CV120

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 01, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 13, 2013

The Court of Appeals hereby passes the following order

A13D0204. TERRANCE CLARKE v. THE STATE.

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

LC NUMBERS:

SU07CR0657

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 13, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 13, 2013

The Court of Appeals hereby passes the following order

A13D0205. MYRON N. WEINSTEIN v. GEORGIA STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS.

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

LC NUMBERS:

11CV54721

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 13, 2013.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 13, 2013

The Court of Appeals hereby passes the following order:

A13D0206. DAVID BARKER v. YVONNE BARKER.

David Barker sued his ex-wife, Yvonne Barker, to modify the child support provisions of the parties' divorce decree and for contempt of the decree's visitation provisions. The trial court dismissed the petition, and Barker seeks discretionary review in this Court. We, however, lack jurisdiction.

Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, when the obligation to pay child support arises from a prior divorce proceeding, child support is a form of alimony. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010); *Jones v. Jones*, 280 Ga. 712, 715-716 (2) (632 SE2d 121) (2006). Jurisdiction over actions to modify a divorce decree's child support provisions lies in the Supreme Court. See *Stowell v. Huguenard*, 288 Ga. 628 (706 SE2d 419) (2011). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/13/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C1180 Atlanta, September 23, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHAEL D. WIMMER v. THE STATE

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0207

RECEIVED IN OFFICE
2013 OCT 10 PM 3:25
CLERK'S COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 09, 2013

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, April 09, 2013

The Court of Appeals hereby passes the following order

A13D0207. MICHAEL D. WIMMER v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 09, 2013.

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

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

Holly K. D. Sparrow *, Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 13, 2013

The Court of Appeals hereby passes the following order:

A13D0207. MICHAEL D. WIMMER v. THE STATE.

On December 11, 2012, the trial court entered its order denying Michael D. Wimmer's Motion for Out-of-Time Appeal and Motion to Void Judgment/Sentence. Wimmer seeks leave to appeal from the trial court's order through an application for discretionary appeal filed with this Court on January 16, 2013. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed.[1] See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State of Ga.*, 190 Ga. App. 734 (380 SE2d 57) (1989). Wimmer filed his application 36 days after entry of the order he seeks to appeal. Therefore, his application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/13/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar, *Clerk.*

[1] Wimmer also suggests that the underlying order is directly appealable and his application should be granted pursuant to OCGA 5-6-35 (j). However, OCGA § 5-6-35 (j) applies when, among other things, "an appeal . . . is initiated by filing an otherwise timely application. . . ."

Court of Appeals
of the State of Georgia

ATLANTA, February 12, 2013

The Court of Appeals hereby passes the following order

A13D0208. ABRA AUTO BODY AND GLASS et al v. TONY WILLIAMS.

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

LC NUMBERS:

12110701

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 12, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 16, 2013

The Court of Appeals hereby passes the following order:

A13D0209. CLAYTON COUNTY BOARD OF EDUCATION v. GALA RACHELE.

On February 19, 2013, we denied the Clayton County Board of Education's application for discretionary appeal. Clayton County filed a motion for reconsideration, pointing out that we subsequently granted an application that presents exactly the same issue and contending that the cases should be considered together. See Case No. A13D0232, *Clayton County Bd. of Educ. v. Wilmer* (Order of March 4, 2013).

Because Clayton County's argument is persuasive, we hereby GRANT its motion for reconsideration. Our February 19, 2013, order is VACATED, and this application is REINSTATED and GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 08, 2013

The Court of Appeals hereby passes the following order

A13D0210. RONALD VICKERS v. STATE OF GEORGIA DEPARTMENT OF HUMAN SERVICES EX REL., SAWYER & TRAVIS VICKERS.

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.

LC NUMBERS:

11A04071

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 08, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 15, 2013

The Court of Appeals hereby passes the following order:

A13D0211. KEITH L. SIROCKMAN v. CAROL M. SIROCKMAN.

It appearing the order of this Court issued FEBRUARY 13, 2013 is incorrect due to clerical error, it is hereby ordered that said order is VACATED and the attached be substituted for the original order.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/15/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 15, 2013

The Court of Appeals hereby passes the following order:

A13D0211. KEITH L. SIROCKMAN v. CAROL M. SIROCKMAN.

Keith L. Sirockman filed this discretionary application seeking to appeal the superior court's final decree of divorce. The Supreme Court, however, has general appellate jurisdiction over divorce and alimony cases. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 15, 2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 13, 2013

The Court of Appeals hereby passes the following order

A13D0212. IN THE INTEREST OF : M. H. AKA M. L., A CHILD (FATHER) .

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

LC NUMBERS:

11TP06207

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 13, 2013.

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

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

Kelly K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 19, 2013

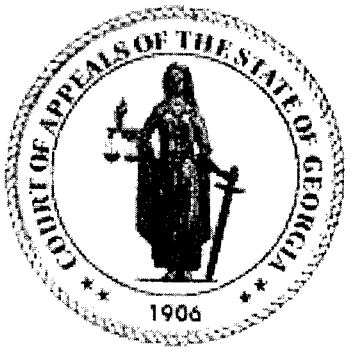
The Court of Appeals hereby passes the following order

A13D0213. JAY WARNING v. BANK OF NEW YORK MELLON f/k/a THE BANK OF NEW YORK AS TRUSTEE FOR THE HOLDER OF CWALT, INC., et al .

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

LC NUMBERS:

2012CV223556



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 19, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 12, 2013

The Court of Appeals hereby passes the following order

A13D0214. JAMES MAHONEY, JR., v. THE STATE.

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

LC NUMBERS:

11CR0115 06CR0044

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 12, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 14, 2013

The Court of Appeals hereby passes the following order

A13D0215. ALFRED PERRY v. CHATHAM COUNTY, GEORGIA .

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

LC NUMBERS:

NONE

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 14, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

RECEIVED IN OFFICE
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COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1556 Atlanta, October 21, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

FRANKLIN L. WILLIAMS v. MARTIN H. EAVES et al.

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 petition be hereby writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A13D0216

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta November 18, 2013

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.

Lui C. Britton, Chief Deputy Clerk

RECEIVED IN OFFICE
2013 NOV 20 PM 2:08
COURT OF APPEALS OF GA

Court of Appeals of the State of Georgia

ATLANTA, February 14, 2013

The Court of Appeals hereby passes the following order:

A13D0216. FRANKLIN L. WILLIAMS v. MARTIN H. EAVES et al.

In A13D0004, Franklin Williams sought to appeal the superior court's 2008 order permanently enjoining him from filing further pleadings or other documents related, directly or indirectly, to his 1997 conviction. We dismissed the application as untimely, and we denied Franklin's subsequent motion for reconsideration. Franklin has now filed three more discretionary applications, which we have consolidated into one, seeking to appeal the same 2008 order. As was the case with A13D0004, this application is untimely. A discretionary application must be filed within 30 days of the order to be appealed. See OCGA § 5-6-35 (d); *Boyle v. State of Ga.*, 190 Ga. App. 734 (380 SE2d 57) (1989). We lack jurisdiction to consider this untimely application, which is hereby DISMISSED.

We note that since 2004, Williams has filed seven direct appeals and discretionary applications in this Court related to civil actions he has filed in Ware County Superior Court against his former defense counsel. In addition, Williams has attempted to file numerous applications that failed to comply with this Court's rules and therefore were returned to him. It is obvious from the 2008 superior court order that the litigation below has ended and Williams has been barred from further filings in that court concerning his 1997 conviction.

Williams is hereby advised that the filing of further untimely and frivolous appeals and applications in this Court may result in the imposition of penalties pursuant to Court of Appeals Rule 15. Furthermore, the Court orders and directs that the Clerk of this Court shall not docket or file any future proposed pleading from Williams until the Court has reviewed the proposed pleading and made a

determination that there is a justiciable issue to be decided by the Court. If we determine that there is no justiciable issue, we will order and direct the Clerk to return the proposed pleading to Williams without docketing or filing it.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 12, 2013

The Court of Appeals hereby passes the following order

A13D0217. VERONICA BRINSON v. ANDREW FOSTER.

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.

LC NUMBERS:

11CV55142

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 12, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 14, 2013

The Court of Appeals hereby passes the following order:

A13D0218. WILLIAM MIDDLETON v. THE STATE.

In November of 2005, William Middleton was convicted of sexual exploitation of children. Nearly seven years later, he filed an extraordinary motion for new trial, which the superior court denied. In A13A0682, William Middleton sought to directly appeal the superior court's October 2012 order denying his extraordinary motion for new trial. We dismissed the appeal for lack of jurisdiction because the order was not directly appealable. See OCGA § 5-6-35 (a) (7); *Balkcom v. State*, 227 Ga. App. 327, 329 (489 SE2d 129) (1997) (to appeal the denial of an extraordinary motion for new trial, a party must file an application for discretionary appeal). On January 24, 2013, Middleton filed an application seeking a discretionary appeal of the trial court's October 2012 order. However, this application is untimely.

A discretionary application must be filed within 30 days of the order to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). We lack jurisdiction to consider Middleton's untimely application, which is hereby DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Lanoue, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 22, 2013

The Court of Appeals hereby passes the following order

A13D0219. JOHN C. OTTO v. SUNTRUST BANKCARD, N.A..

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

LC NUMBERS:

2005VS080182

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 22, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 26, 2013

The Court of Appeals hereby passes the following order:

A13D0220. PHILLIP DALENBERG v. JENNIFER DALENBERG.

On February 8, 2013, we dismissed Phillip Dalenberg's application for discretionary appeal as untimely. Dalenberg has filed a motion for reconsideration, and has provided documentation showing that his application was timely filed. Therefore, we hereby GRANT Dalenberg's motion for reconsideration. The February 8, 2013, order dismissing his application is VACATED, and the application is REINSTATED.

After full consideration of the merits of Dalenberg's application for discretionary review, we hereby GRANT the application.

Dalenberg shall have ten days from the date of this order to file a notice of appeal in the superior court, provided that he has not otherwise filed a timely notice of direct appeal. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 13, 2013

The Court of Appeals hereby passes the following order:

A13D0221. TEROME EVANS v. THE STATE.

On December 20, 2012, the trial court entered an order revoking Terome Evans's first offender status and sentencing him to incarceration. On January 23, 2013, Evans filed this application for discretionary appeal. We, however, lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). In this case, the thirtieth day after entry of the revocation order fell on Saturday, January 19, 2013. Ordinarily, the application would have been due on Monday, January 21. But because that day was a legal holiday, the application was due on Tuesday, January 22. See OCGA § 1-3-1 (d) (3). The application was not filed, however, until Wednesday, January 23. Because the application was not timely filed, it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/13/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 28, 2013

The Court of Appeals hereby passes the following order:

A13D0222. SHEENA ADAMS v. THE STATE.

When Sheena Adams filed this application for discretionary appeal she did not include a stamped "filed" copy of the order she wished to appeal as required by Court of Appeals Rule 31 (e). A stamped "filed" copy is required in order for this Court to ascertain that the application was filed within 30 days, which is a jurisdictional prerequisite. See OCGA § 5-6-35 (d) (application must be filed within 30 days of the date of the order appealed); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (OCGA § 5-6-35 requirements are jurisdictional). On February 8, 2013, this Court ordered Adams to supplement her application within 10 days with a stamped "filed" copy of the order to be appealed. We noted that failure to comply with this directive would result in dismissal of the application. More than 10 days have passed since we issued the February 8, 2013 order, but Adams has not submitted a stamped "filed" copy of the trial court's order. Accordingly, her application is hereby *DISMISSED*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 21, 2013

The Court of Appeals hereby passes the following order

A13D0223. RONALD FITZPATRICK v. THE BANK OF NEW YORK MELLON f/k/a THE BANK OF NEW YORK .

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

LC NUMBERS:

2012CV221678

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 21, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 20, 2013

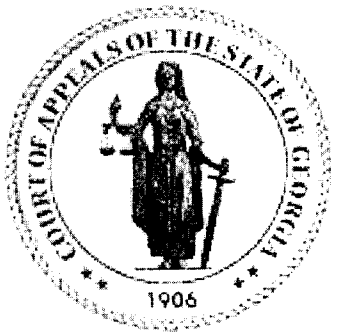
The Court of Appeals hereby passes the following order

A13D0224. KIM MARIE HOOSLINE 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.

LC NUMBERS:

0794025



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 20, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 22, 2013

The Court of Appeals hereby passes the following order

A13D0225. ANTHONY MCATEER v. THE STATE.

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

LC NUMBERS:

03CR20

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 22, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 26, 2013

The Court of Appeals hereby passes the following order

A13D0226. FULTON COUNTY BOARD OF EDUCATION v. D. R. H. .

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.

LC NUMBERS:

2012CV214752

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 26, 2013.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 21, 2013

The Court of Appeals hereby passes the following order

A13D0227. IN THE INTEREST OF: S. I. - J. M., J. L. S., AND N. R. S., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

13612J282 13612J283 13612J284

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 21, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 19, 2013

The Court of Appeals hereby passes the following order:

A13D0228. WILLIAM MIDDLETON v. THE STATE.

In November of 2005, William Middleton pled guilty to sexual exploitation of children. In 2012, he filed a motion in arrest of judgment and to vacate his guilty plea. The trial court denied the motion on January 4, 2013, and Middleton filed this application for discretionary appeal.

An order denying an out-of-time motion to withdraw a guilty plea is directly appealable, as is an order denying a motion in arrest of judgment. *Lay v. State*, 289 Ga. 210, 211 (2) (710 SE2d 141) (2011); *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008). This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, Middleton's application is GRANTED. He shall have ten days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/19/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 19, 2013

The Court of Appeals hereby passes the following order:

A13D0229. JARVIS AUGUSTUS WARE v. THE STATE.

Jarvis Augustus Ware was convicted of malice murder and concealing the death of another. Following the denial in part and dismissal in part of his extraordinary motion for new trial, Ware filed a motion for discretionary appeal in this Court. He has also filed a motion to allow the untimely filing of his application for discretionary appeal. However, under our Constitution, the Supreme Court has appellate jurisdiction over "[a]ll cases in which a sentence of death was imposed or could be imposed." See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8). Because a penalty of death can be imposed for the crime of murder, jurisdiction is proper in the Supreme Court. See OCGA § 17-10-30 (b); *Neal v. State*, 290 Ga. 563, 572 (722 SE2d 765) (2012) (Hunstein, C. J., concurring); see also *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984) (directing this Court to transfer "all cases in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder"). Accordingly, Ware's appeal is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/19/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 06, 2013

The Court of Appeals hereby passes the following order

A13D0230. GHEBREIGZIABHER MEHARENA v. PERDUE FARMS 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.

LC NUMBERS:

2012V107289

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 06, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 08, 2013

The Court of Appeals hereby passes the following order

A13D0231. A. GERALD CRAWFORD, JR v. UNITED BANK.

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

LC NUMBERS:

2011V943

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 08, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 04, 2013

The Court of Appeals hereby passes the following order

A13D0232. CLAYTON COUNTY BOARD OF EDUCATION v. BURNEDETTA WILMER.

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.

LC NUMBERS:

2012CV02434

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 04, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 08, 2013

The Court of Appeals hereby passes the following order:

A13D0233. BRIAN P. KEMP, GEORGIA SECRETARY OF STATE v. MONROE COUNTY, GEORGIA, A POLITICAL SUBDIVISION OF THE STATE OF GEORGIA.

Brian P. Kemp, in his capacity as Secretary of State of the State of Georgia, has filed this application requesting leave pursuant to OCGA § 5-6-35 to appeal the superior court's final order granting Monroe County, Georgia's petition for writ of mandamus. The Supreme Court, however, has exclusive appellate jurisdiction over all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) ("'[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.'"). Because this case appears to fall within the Supreme Court's jurisdiction over extraordinary remedies, and because the ultimate responsibility for determining appellate jurisdiction lies with the Supreme Court, see *Saxton v. Coastal Dialysis &c.*, 267 Ga. 177, 178 (476 SE2d 587) (1996), this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/08/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 01, 2013

The Court of Appeals hereby passes the following order

A13D0234. IN THE INTEREST OF: D. R. M., & M. W. H., JR., CHILDREN .

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

LC NUMBERS:

11512910 11512911

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 01, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 06, 2013

The Court of Appeals hereby passes the following order

A13D0235. SANDEEP BHARADIA 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.

LC NUMBERS:

CR030561

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 06, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 11, 2013

The Court of Appeals hereby passes the following order

A13D0236. SMOKERISE PLANTATION HOMEOWNERS ASSOCIATION, INC., v. DAVID W. CREE.

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

LC NUMBERS:

2011SV0246

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 11, 2013.

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

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

Holly K. O. Ipanoa , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 11, 2013

The Court of Appeals hereby passes the following order

A13D0237. IN THE INTEREST OF: J. N. P., A CHILD (MOTHER).

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

LC NUMBERS:

08412146

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 11, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 11, 2013

The Court of Appeals hereby passes the following order:

A13D0238. JAMES WHITFIELD v. SECURE PARKING ENFORCEMENT LLC et al.

James Whitfield filed this application for a discretionary appeal from the superior court's order granting co-defendant City of Atlanta's motion to dismiss. We lack jurisdiction.

The application reflects that Whitfield filed a complaint against Secure Parking Enforcement LLC asserting claims arising out the alleged unlawful "booting" of his car, and he included the City as a party because he sought a declaration that a City ordinance was invalid. See OCGA § 9-4-7 (b). The City moved to dismiss the complaint for failure to state a claim. Without specifically passing on the alleged unconstitutionality of the City's ordinance, the trial court granted the City's motion to dismiss on January 16, 2013, and Whitfield filed this application seeking discretionary review of the trial court's order on February 11, 2013. The application does not show, however, that Whitfield's claims against co-defendant Secure Parking Enforcement have been dismissed.

> In 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.

Johnson v. Hosp. Corp. of Am., 192 Ga. App. 628, 629 (385 SE2d 731) (1989) (citations and punctuation omitted).

Because Whitfield's claims against Secure Parking Enforcement remain pending below, the order dismissing his claims against the City is not a final judgment, and Whitfield was required to follow the interlocutory procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587, 588 (408 SE2d 103) (1991). Whitfield'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, 03/11/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, February 28, 2013

The Court of Appeals hereby passes the following order

A13D0239. CARA WILLIAMS v. STATE OF GEORGIA, GWINNETT COUNTY DETENTION CENTER.

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

LC NUMBERS:

13A00176

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 28, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 13, 2013

The Court of Appeals hereby passes the following order

A13D0240. DEKALB COUNTY, GEORGIA FIRE RESCUE DEPARTMENT v. KENNETH IVEY.

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

LC NUMBERS:

09CV9326

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 13, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 14, 2013

The Court of Appeals hereby passes the following order

A13D0241. JEROME BRAYLOCK, JR. v. THE STATE.

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

LC NUMBERS:

09CR00011R5JFL004

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 14, 2013.

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

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

Kelly K. O. Spanow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, February 21, 2013

The Court of Appeals hereby passes the following order:

A13I0138. CITY OF TYBEE ISLAND, GEORGIA, et al. v. LIVE OAK GROUP, LLC.

A13D0242. CITY OF TYBEE ISLAND, GEORGIA, et al. v. LIVE OAK GROUP, LLC.

Live Oak Group, LLC filed an action against the City of Tybee Island, Georgia, and the members of its city council, challenging the denial of its application for a planned use development amendment. The parties filed cross motions for summary judgment. In its order, the trial court granted summary judgment to Live Oak Group, LLC as to its claim for inverse condemnation and denied summary judgment to the applicants on the same claim. The applicants have filed applications for interlocutory and discretionary appeal seeking review of the trial court's ruling on the inverse condemnation claim.[1]

Under OCGA § 9-11-56 (h), the grant of summary judgment on any issue or as to any party is reviewable by direct appeal. *City of Demorest v. Town of Mt. Airy*, 282 Ga. 653, 654 n.1 (653 SE2d 43) (2007); *Whiddon v. Stargell*, 192 Ga. App. 826, 827-28 (386 SE2d 884) (1989). We will grant a timely application for interlocutory appeal if the order complained of is subject to direct appeal and the applicants have not otherwise filed a timely notice of appeal. *Spivey v. Hembree*, 268 Ga. App. 485,

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[1] In both applications, the applicants show that they filed the applications for interlocutory and discretionary appeal, as well as notice of appeal, to ensure the preservation of their right to appeal. The notice of appeal is not included as an exhibit in either application.

486 n.1 (602 SE2d 246) (2004). Accordingly, this interlocutory application is hereby GRANTED. The applicants shall have ten days from the date of this order to file a notice of appeal in the trial court. If they have already filed a notice of appeal from the order at issue here, they need not file a second notice. The clerk of the trial court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

The application for discretionary appeal, which is docketed as Case No. A13D0242, is dismissed as duplicative.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/21/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 12, 2013

The Court of Appeals hereby passes the following order

A13D0243. JAMES DARNELL SPRAYBERRY v. THE STATE.

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

LC NUMBERS:

10CR312

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 12, 2013.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 06, 2013

The Court of Appeals hereby passes the following order:

A13D0244. GARY HOLLOWAY v. THE STATE.

We affirmed Gary Holloway's conviction for child molestation in *Holloway v. State*, 268 Ga. App. 300 (601 SE2d 753) (2004). In an order entered May 10, 2012, the trial court revoked two years of Holloway's probation. On February 8, 2013, Holloway filed this application for leave to file a discretionary appeal from the trial court's order revoking his probation. We lack jurisdiction.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Holloway filed this application 274 days after entry of the revocation order.

In his application, Holloway asks this Court to excuse his failure to timely file this application and grant him an out-of-time discretionary appeal. "Georgia courts may excuse compliance with a statutory requirement for appeal only where necessary to avoid or remedy a constitutional violation concerning the appeal." *Gable v. State*, 290 Ga. 81, 85 (2) (b) (720 SE2d 170) (2011). See *In the Interest of S. M. B.*, __ Ga. App. __, __ (735 SE2d 122, 124) (2012) ("an *appellate* court may, at its discretion, permit an out-of-time discretionary appeal where a constitutional right is at stake").

Holloway claims that his counsel did not inform him of his appellate rights and he did not know of those rights, and, therefore, he is entitled to relief. Setting aside whether we may consider, without more, Holloway's unsupported assertion that his trial counsel was ineffective, Holloway "did not have the right to file a direct appeal in this case, and so no out-of-time appeal is available on ineffective assistance grounds." *In the Interest of S. M. B.*, __ Ga. App. ___ (735 SE2d 122, 124) (2012).

Kreps v. Gray, 234 Ga. 745 (218 SE2d 1) (1975), relied on by Holloway, is distinguishable in that it does not address a claim of ineffective assistance in the context of a discretionary appeal. Accordingly, Holloway does not show that we may excuse his failure to timely file this application as required by statute in order to avoid or remedy a constitutional violation. *Gable*, supra, 290 Ga. at 85 (2) (b).

For the foregoing reasons, Holloway's application is DISMISSED as untimely.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/06/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 12, 2013

The Court of Appeals hereby passes the following order:

A13D0245. SUSA-NASA v. MEDICAL CONTRACTOR CORIZON et al.

Susa-Nasa filed a pro se complaint about the medical treatment he received while in pretrial custody. The defendants moved to dismiss the action, and on November 26, 2012, the trial court granted their motion. On February 11, 2013, Susa-Nasa filed a pro se application for discretionary appeal of that ruling. Because the application was untimely, we lack jurisdiction to hear this appeal.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. Accordingly, Susa-Nasa's application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/12/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 13, 2013

The Court of Appeals hereby passes the following order

A13D0246. JOHN ROBERT LEFEBVRE v. STATE OF GEORGIA .

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

LC NUMBERS:

12A04418

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 13, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 14, 2013

The Court of Appeals hereby passes the following order

A13D0247. WESLEY SCREWS v. WAL-MART STORES, INC.

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

LC NUMBERS:

2012S10

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 14, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 20, 2013

The Court of Appeals hereby passes the following order:

A13D0248. IN THE INTEREST OF: J. H., A CHILD.

On November 27, 2012, the juvenile court entered an order terminating the parental rights of the natural parents of minor child J. H. On January 16, 2013, the parents filed a motion in the juvenile court for an extension of time in which to appeal to this Court. On January 18, the juvenile court granted the motion and gave the parents through February 18 to file a "notice of appeal." On February 18, the parents filed this application for discretionary appeal. We, however, lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). A party's failure to meet this statutory deadline deprives us of jurisdiction to consider the application. *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001). Although the juvenile court purported to grant the parents an extension of time, a trial court lacks authority to extend the time for a party to file an application for discretionary appeal in an appellate court. *Gable v. State*, 290 Ga. 81, 85 (2) (a) (720 SE2d 170) (2011). Rather, a request for an extension of time to file a discretionary application in this Court must be directed to this Court. Id. Moreover, such requests must be made within the 30-day period in which the application is due. Id. at 84-85; see also OCGA § 5-6-39 (d).

Because the parents did not make a timely request for an extension to this Court, we have no basis for excusing their failure to comply with the 30-day deadline set forth in OCGA § 5-6-35 (d). This untimely application is therefore DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/20/2013

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 14, 2013

The Court of Appeals hereby passes the following order

A13D0249. SHELBY RONEY v. THE STATE.

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

LC NUMBERS:

130005

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 14, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 05, 2013

The Court of Appeals hereby passes the following order

A13D0250. MORGAN COUNTY v. CHRISTINE B. MAY.

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.

LC NUMBERS:

2012CA145

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 05, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 05, 2013

The Court of Appeals hereby passes the following order:

A13D0251. CHRISTINE B. MAY v. MORGAN COUNTY.

Christine May seeks discretionary review of a December 13, 2013 order. We lack jurisdiction because her appeal is untimely.

To be timely, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). May filed her application on January 15, 2013,[1] and she acknowledges that this application was filed a day after the 30 day deadline. The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State of Ga.*, 190 Ga. App. 734 (380 SE2d 57) (1989). Because May's application is untimely, it is hereby DISMISSED.[2]

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[1] May initially filed her application in the Supreme Court, but the Supreme Court transferred it to this Court after determining that the constitutional question raised by May was never actually ruled upon by the trial court.

[2] We note that although this application is untimely, the trial court, having failed to timely notify the parties of the original order, vacated and restated the order to allow the parties to exercise their appeal rights. May has filed a timely application for discretionary appeal from that restated order. See A13D0256.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/05/2013

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

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

Holly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 20, 2013

The Court of Appeals hereby passes the following order

A13D0252. DAME LEE v. LATMARA SMITH.

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

LC NUMBERS:

2012CV216908

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 20, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 13, 2013

The Court of Appeals hereby passes the following order

A13D0253. BURKE COUNTY, GEORGIA et al v. OTIS F. ASKIN, 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.

LC NUMBERS:

2011CV0915

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 13, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 18, 2013

The Court of Appeals hereby passes the following order

A13D0254. THE LAMAR COMPANY, LLC v. CITY OF ATLANTA et al .

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

LC NUMBERS:

2012CV211302

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 18, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 08, 2013

The Court of Appeals hereby passes the following order

A13D0255. MARY E. CASE v. MARK BUTLER, IN HIS CAPACITY AS COMMISSIONER OF THE GEORGIA DEPARTMENT OF LABOR.

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.

LC NUMBERS:

CE1201426063

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 08, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 05, 2013

The Court of Appeals hereby passes the following order

A13D0256. CHRISTINE B. MAY v. MORGAN COUNTY, GEORGIA .

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

LC NUMBERS:

2012CA145

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 05, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 05, 2013

The Court of Appeals hereby passes the following order:

A13D0257. FLEXSTAFF SERVICES, INC. v. VAN YATH SERVICES, INC.

Flexstaff Services, Inc. seeks discretionary review of the trial court's order denying its motion to vacate default judgment or, in the alternative, motion to open default. We, however, lack jurisdiction.

Although the trial court entered judgment against Flexstaff Services as to liability, it left pending the issue of damages. The default judgment specifically states that Van Yath Services "shall present evidence of damages at a hearing before this Court upon a date and time to be specified in a separate Rule Nisi," and there is no indication in the application materials that such a hearing has been held. Because the issue of damages remains pending, the order is not final, and Flexstaff Services was required to follow the interlocutory appeal procedures set forth in OCGA § 5-6-34 (b). See *Neal v. State of Ga.*, 182 Ga. App. 37 (354 SE2d 664) (1987); *Attridge v. Maines*, 174 Ga. App. 472, 473 (330 SE2d 409) (1985). Its failure to do so deprives us of jurisdiction to consider this appeal, which is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/05/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 20, 2013

The Court of Appeals hereby passes the following order

A13D0259. M. EUGENE GIBBS et al v. CONSTANCE HAMILTON.

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

LC NUMBERS:

12A06980

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 20, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order:

A13D0260. GLORIA VEAL et al. v. DEUTSCHE BANK NATIONAL TRUST COMPANY et al.

This case originated as a dispossessory proceeding in magistrate court. Following an adverse ruling there, Gloria and Robert Veal appealed to the superior court, which likewise ruled against them. The Veals then appealed directly to this Court, but we dismissed the case due to the Veals' failure to file an application for discretionary appeal. See A12A1809. Upon remand, the superior court ordered that funds previously paid into the court's registry be released to Deutsche Bank National Trust Company. The Veals filed an application for discretionary appeal from that order, which this Court denied. See A13D0106. The superior court also entered a writ of possession in favor of Deutsche Bank National Trust Company. The Veals filed another direct appeal, which we dismissed for failure to follow the discretionary appeal procedure. See A13A0806.

The Veals then filed a motion in superior court to set aside the judgment and writ of possession entered against them. The superior court denied that motion in an order entered on January 28, 2013. Twenty-nine days later, on February 26, 2013, the Veals filed the instant application for discretionary appeal. We, however, lack jurisdiction.

Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). OCGA § 44-7-56 provides that an appeal from any dispossessory judgment must be

filed within seven days of the date the judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Because OCGA § 44-7-56 requires a judgment in a dispossessory action to be appealed, whether directly or by application, within seven days of the entry of the final judgment, this application is untimely. Accordingly, it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 12, 2013

The Court of Appeals hereby passes the following order

A13D0261. BONNIE WINSLETT v. TERRY GUTHRIE.

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.

LC NUMBERS:

SU12CV1935

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 12, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 14, 2013

The Court of Appeals hereby passes the following order

A13D0263. TERRANCE DAVIS v. THE STATE.

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

LC NUMBERS:

10CR66360

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 14, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 21, 2013

The Court of Appeals hereby passes the following order:

A13D0264. JAMES KEMP v. THE STATE.

James Kemp pled guilty to kidnapping and other crimes. He later filed a motion seeking, among other things, to withdraw his guilty plea. The trial court dismissed the motion, and Kemp filed this application for discretionary appeal, as well as a direct appeal that has been docketed as A13A1392.

A trial court's order resolving a motion to withdraw a guilty plea, even an untimely one, is directly appealable. See *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008); *Ward v. State*, 311 Ga. App. 53 (714 SE2d 731) (2011). Ordinarily, we will grant a timely application when the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Because Kemp has already filed a direct appeal from the same order, however, this application is hereby DISMISSED as superfluous.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/21/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order

A13D0265. ALFRED PERRY v. CHATHAM COUNTY, GEORGIA .

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

LC NUMBERS:

NONE

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 28, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order

A13D0266. ALFRED PERRY v. CHATHAM COUNTY, GEORGIA, et al.

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

LC NUMBERS:

NONE

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 28, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 02, 2013

The Court of Appeals hereby passes the following order

A13D0267. ALLEN TURNER v. DANIELLE LITTLE.

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

LC NUMBERS:

2012V107442

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 02, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 20, 2013

The Court of Appeals hereby passes the following order:

A13D0268. ANATOLE EKIKONE MBE v. THE STATE.

In January of 2012, Anatole Ekikone Mbe pled guilty to forgery in the second degree and obstruction of an officer. Mbe filed a motion to vacate, set aside, or correct his sentence in the Supreme Court, which transferred Mbe's application for discretionary appeal to the case to this Court. Upon transfer to this Court, Mbe filed his "Petition Challenging a Judgment of Conviction Violating the 4th Amendment under the Exclusionary Rule." However, nothing in the application materials show that Mbe sought or was denied such relief below.

In the absence of a ruling by the trial court, we have nothing to review. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010). To the extent Mbe is asking this Court to rule on the validity of his plea, we note that we are a court for the correction of errors, and we cannot consider issues which were not raised below and ruled on by the trial court. See *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009). Moreover, "a petition to vacate or modify a judgment of conviction is not an appropriate remedy in a criminal case, and any appeal from an order denying such a motion must be dismissed." See *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009); *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010).

As the applicant, Mbe bears the burden of establishing that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) ("The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith."). Accordingly, as Mbe has provided

nothing for us to review, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/20/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. B. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order:

A13D0269. ANOTOLE EKIKOME MBE v. STATE OF GEORGIA.

Anotole Ekikombe Mbe has applied for discretionary review of the denial of his petition for writ of error coram nobis, in which he sought to vacate a 2006 guilty plea. The State of Georgia has moved to dismiss the application for lack of jurisdiction. The State's motion to dismiss is hereby DENIED. Mbe's application is also DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 03, 2013

The Court of Appeals hereby passes the following order:

A13D0270. CLARENCE SUMLIN v. CITY OF ATLANTA et al.

Clarence Sumlin seeks to appeal an adverse workers' compensation decision. The record shows that after the Appellate Division of the State Board of Workers' Compensation (the "Board") denied his request for benefits, Sumlin filed a timely notice of appeal to the superior court. On May 25, 2012, the Board transmitted its record to the superior court, and the action was docketed in the superior court on June 1, 2012. On August 14, 2012, the respondents filed a motion to dismiss, arguing that the superior court had lost jurisdiction. The trial court entered an order on February 4, 2013, agreeing that the Board's decision had been affirmed as a matter of law and also noting that the decision would have been subject to affirmance on the merits based on the doctrine of res judicata. Sumlin filed an application for discretionary appeal from the February 4, 2013 order. The respondents, however, argue that Sumlin's appeal to the superior court was previously affirmed by operation of law, rendering the superior court's order a nullity and Sumlin's application for discretionary appeal untimely. We agree.

OCGA § 34-9-105 (b) provides, in relevant part, that "if the court does not hear the case within 60 days of the date of docketing in the superior court, the decision of the board shall be considered affirmed by operation of law. . . ." Here, because the petition for review was docketed on June 1, 2012, the decision was affirmed by operation of law on July 31, 2012. This is the date that controls for purposes of filing a timely application for appeal. See OCGA § 34-9-105 (d); *Synthetic Industries v. Camp*, 196 Ga. App. 637, 637-638 (396 SE2d 518) (1990). The superior court's subsequent award was a mere nullity. See *MacKenzie v. Sav-A-Lot Food Store*, 226

Ga. App. 32, 34 (1) (485 SE2d 559) (1997).

In order for this Court to have jurisdiction, we must have a timely filed application for discretionary appeal. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). An application is timely if it is filed within 30 days of the entry of the order the applicant seeks to appeal. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Thus, Sumlin had to file his application within 30 days of July 31, 2012, the date that the Board's decision was affirmed by operation of law. His application - filed on March 6, 2013 – is untimely. Accordingly, his application for discretionary appeal is hereby DISMISSED for lack of jurisdiction. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/03/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lanza, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 07, 2013

The Court of Appeals hereby passes the following order:

A13D0270. CLARENCE SUMLIN v. CITY OF ATLANTA et al.

On April 3, 2013, this Court dismissed Clarence Sumlin's application for discretionary appeal. We noted that Sumlin had failed to file his application within 30 days of the entry of the order he sought to appeal in accordance with OCGA § 5-6-35 (d). On April 12, 2013, Sumlin filed a motion for reconsideration, once again arguing the merits of his appeal. His motion does not address or dispute the facts supporting our dismissal of his application.

Motions for reconsideration will be granted "only when it appears that the Court overlooked a material fact in the record, a statute or a decision which is controlling as authority and which would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority." Court of Appeals Rule 37 (e). Sumlin has not shown that any of these bases exists. Although he has attempted to argue the merits of his appeal, we lack jurisdiction to consider an untimely application. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Sumlin's motion for reconsideration is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/07/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1377 Atlanta, October 07, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CLARENCE SUMLIN v. CITY OF ATLANTA

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0270

Costs paid: Indigent

RECEIVED IN OFFICE
2013 NOV -5 PM 3:37
CLERK'S OFFICE
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta November 04, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S13C1171 Atlanta, September 09, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILLIE WRIGHT JR. v. JAMIE SMITH et al

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 writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0271

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2013 SEP 26 AM 11:22
CLERK'S OFFICE
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 24, 2013

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.

Sui C. Britton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, March 27, 2013

The Court of Appeals hereby passes the following order

A13D0271. WILLIE WRIGHT JR., v. JAMIE SMITH, et al .

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

LC NUMBERS:

12CV46236

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 27, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 26, 2013

The Court of Appeals hereby passes the following order:

A13D0272. KASIA FORD v. JEFFREY FORD.

Jeffrey Ford and Kasia Ford were divorced in December of 2007. Jeffrey Ford filed a petition for change of custody and contempt against his ex-wife, and the trial court issued an order in which it denied a change in custody, modified Kasia Ford's visitation schedule, found her in contempt for failure to comply with the child support provisions of the divorce decree, and increased her child support to include arrearage payments. Kasia Ford filed a motion for reconsideration, which the trial court denied. Kasia Ford then filed this application for discretionary appeal.

The issues in this case arise out of the child support and custody provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony. Additionally, because Jeffrey Ford's action was based on an alleged violation of the parties' divorce decree, appellate jurisdiction lies in the Supreme Court. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6) (Supreme Court has jurisdiction over "[a]ll divorce and alimony cases"); see *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v.*

Morris, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 04, 2013

The Court of Appeals hereby passes the following order

A13D0273. FERNANDO CANELA v. TOP NOTCH PERSONNEL et al .

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

LC NUMBERS:

2012CV2544

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 04, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order

A13D0274. AUTO FARM, INC., v. GEORGIA WORKERS COMPENSATION BOARD.

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

LC NUMBERS:

2012CV224613

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, March 28, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 05, 2013

The Court of Appeals hereby passes the following order:

A13D0275. WILLIAM MORRIS MCCAVEY v. DEBRA ELAINE MCCAVEY, et al.

William Morris McCavey filed a civil action against his ex-wife and several other defendants. The trial court granted the defendants' motions to dismiss, and McCavey filed this application for discretionary review.

The superior court's order appears to be final, and no provision of OCGA § 5-6-35 (a) appears to apply. Therefore, the order is subject to direct appeal.

Ordinarily, we will grant a timely application when the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). In this case, however, it appears that McCavey has already filed a notice of appeal from the trial court's order. Accordingly, this application is superfluous, and it is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/05/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order

A13D0275. WILLIAM MORRIS MCCAVEY v. DEBRA ELAINE MCCAVEY et al .

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 28, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, March 27, 2013

The Court of Appeals hereby passes the following order:

A13D0276. JAMES L. STEPHENS v. THE STATE.

James L. Stephens filed this application for discretionary appeal but did not include a stamped "filed" copy of the order he wished to appeal as required by Court of Appeals Rule 31 (e). A stamped "filed" copy is required in order for this Court to ascertain that the application was filed within 30 days, which is a jurisdictional prerequisite. See OCGA § 5-6-35 (d) (application must be filed within 30 days of the date of the order appealed); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (OCGA § 5-6-35 requirements are jurisdictional). On March 12, 2013, this Court ordered Stephens to supplement his application within 10 days with a stamped "filed" copy of the order to be appealed. We noted that failure to comply with this directive would result in dismissal of the application. More than 10 days have passed since we issued the March 12, 2013 order, but Stephens has not submitted a stamped "filed" copy of the trial court's order. Accordingly, his application is hereby *DISMISSED*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/27/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 08, 2013

The Court of Appeals hereby passes the following order:

A13D0277. WILLIAM THOMAS MIDDLETON v. THE STATE.

In 2005, William Middleton pled guilty to sexual exploitation of children. In 2012, he moved to vacate his guilty plea. The trial court denied the motion, and Middleton filed an application for discretionary appeal in this Court. We granted the application by order informing Middleton that he had ten days in which to file a notice of appeal in the trial court. See A13D0228; see also OCGA § 5-6-35 (g) ("Within ten days after an order is issued granting the appeal, the applicant, to secure a review of the issues, shall file a notice of appeal as provided by law."). Middleton, however, filed a "Notice of Appeal" in this Court, along with additional documents. We docketed the filing as another application for discretionary appeal.

A notice of appeal must be filed "with the clerk of the court wherein the case was determined." OCGA § 5-6-37. "[A] notice of appeal filed anywhere other than where the law directs is ineffective." *Adams v. State*, 234 Ga. App. 696, 697 (1) (507 SE2d 538) (1998); see also *In re Estate of Dasher*, 259 Ga. App. 201, 202 n. 2 (576 SE2d 559) (2002); *Bailey v. Bonaparte*, 125 Ga. App. 512 (188 SE2d 119) (1972). Accordingly, Middleton's notice of appeal filed in this Court is not effective to initiate his appeal from the denial of his motion to vacate his guilty plea. And this application, filed in March, is untimely as to the original trial court order, entered in January. Accordingly, this application is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/08/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 04, 2013

The Court of Appeals hereby passes the following order:

A13D0278. JANICE L. COFIELD v. HALPERN ENTERPRISES, INC. et al.

In the parties' third appearance before this Court, Janice Cofield seeks discretionary review of the trial court's order denying her motion to vacate or for extraordinary relief. In the first appearance of this case in this Court, Cofield appealed the grant of partial summary judgment to Halpern Enterprises, Inc. We reversed the trial court's order because the trial court did not provide Cofield with written notice of the summary judgment hearing. *Cofield v. Halpern Enterprises, Inc.*, 316 Ga. App. 582 (730 SE2d 63) (2012). Subsequently, the trial court granted Halpern Enterprises's motion for sanctions and dismissed Cofield's complaint. Cofield appealed to this Court, and we affirmed the trial court's order in an unpublished opinion. *Cofield v. Halpern Enterprises*, Case No. A12A1628 (decided August 27, 2012). Months later, Cofield filed a motion to vacate or to grant extraordinary relief, which the trial court denied on February 7, 2013. Cofield then filed this application for discretionary appeal to challenge the February 7, 2013 ruling. We, however, lack jurisdiction.

An appeal is subject to dismissal when the questions presented are moot. See OCGA § 5-6-48 (b) (3). Mootness results if a ruling would have no practical effect on the alleged controversy. See *Carlock v. Kmart Corp.*, 227 Ga. App. 356, 361 (3) (a) (489 SE2d 99) (1997). Here, this Court has already affirmed the dismissal of Cofield's complaint. This ruling is binding on the lower court. See OCGA § 9-11-60 (h). Any subsequent appeal in this case is thus moot and subject to dismissal. See OCGA § 5-6-48 (b) (3); *Wilkinson v. Household Finance Corp., III*, 250 Ga. App. 131, 132 (550 SE2d 677) (2001) (ruling in first appeal moots second appeal).

Accordingly, this application is hereby DISMISSED as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/04/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loma, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 28, 2013

The Court of Appeals hereby passes the following order:

A13D0280. IN THE INTEREST OF: C. T. AND M. S., CHILDREN (FATHER).

The father of C. T. and M. S. seeks to appeal the January 28, 2013, order terminating his parental rights. The father filed his application for discretionary appeal on March 8, 2013. To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, the father filed his application 39 days after the juvenile court entered its termination order. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this untimely application for appeal is *DISMISSED* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 10, 2013

The Court of Appeals hereby passes the following order

A13D0281. PLUNKETT HEATING AND AIR CO, INC., et al v. CLIFFORD HINTZ.

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

LC NUMBERS:

2012CV0892

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 10, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 13, 2013

The Court of Appeals hereby passes the following order

A13D0281. PLUNKETT HEATING AND AIR CO, INC., et al v. CLIFFORD HINTZ.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 13, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 26, 2013

The Court of Appeals hereby passes the following order:

A13D0282. MOORE'S DISCOUNT FURNITURE, INC. v. WILLIAM BLACK.

On December 21, 2012, Moore's Discount Furniture, Inc. and its workers' compensation insurer (collectively "Moore's") filed an application for discretionary appeal in this Court, seeking discretionary review of an award of the Appellate Division of the State Board of Workers' Compensation, which granted William Black's claim for workers' compensation benefits. The award had been affirmed by operation of law under OCGA § 34-9-105 (b). We reviewed the merits of the application for discretionary appeal and denied the application on January 22, 2013.

On February 11, 2013, Moore's filed an application for discretionary review of the same award in the Supreme Court. Finding no basis for Supreme Court jurisdiction, the case was subsequently transferred to this Court, and we docketed it on March 14, 2013 as Case No. A13D0282. Moore's, however, is not entitled to file a second appeal of the same award. "It is axiomatic that the same issue cannot be relitigated ad infinitum." *Echols v. State*, 243 Ga. App. 775, 776 (534 SE2d 464) (2000). Because the denial of Moore's previous application for discretionary appeal in this Court was an adjudication on the merits, this appeal is barred by the doctrine of res judicata. See *Northwest Social & Civic Club v. Franklin*, 276 Ga. 859, 860 (583 SE2d 858) (2003); *Hook v. Bergen*, 286 Ga. App. 258, 261 (1) (649 SE2d 313) (2007).

This appeal is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 01, 2013

The Court of Appeals hereby passes the following order:

A13D0283. NATHAN E. OHUCHE v. FEDERAL NATIONAL MORTGAGE ASSOCIATION.

The superior court entered an order requiring Nathan E. Ohuche to pay rent into the registry of the court pending final resolution of this dispossessory action. Ohuche then filed this discretionary application seeking to appeal the order. We, however, lack jurisdiction.

The order compelling payment of rent into the court registry is not a final order because the dispossessory action remains pending below. See *Rivera v. Housing Authority of Fulton County*, 163 Ga. App. 648 (295 SE2d 336) (1982). Therefore, Ohuche was required to follow the interlocutory application procedures set forth in OCGA § 5-6-34 (b), which include obtaining a certificate of immediate review from the trial court. OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Ohuche's failure to comply with the interlocutory appeal procedures deprives us of jurisdiction over this application, which is hereby DISMISSED.

Ohuche has also filed an emergency motion, asking us to stay the dispossessory proceeding. That motion is DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/01/2013

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

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

Holly K. B. Lawson, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 03, 2013

The Court of Appeals hereby passes the following order

A13D0284. CATHERINE GIBSON MCCAULEY v. MILLER BUILT HOMES, 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.

LC NUMBERS:

11CV2466

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 03, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 11, 2013

The Court of Appeals hereby passes the following order

A13D0285. AUDREY PAYTON v. THEODORE JACKSON, SHERIFF.

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.

LC NUMBERS:

2012CV217090

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 11, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 01, 2013

The Court of Appeals hereby passes the following order

A13D0286. RICHARD C. MAYS v. THE STATE.

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

LC NUMBERS:

13A00064

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 01, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 04, 2013

The Court of Appeals hereby passes the following order

A13D0287. ROBERT JAY DAVIS v. AMY KRISTEN WALTON 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.

LC NUMBERS:

13V0017

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 04, 2013.

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

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

Hally K. O. Lanoar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 02, 2013

The Court of Appeals hereby passes the following order

A13D0289. DANIEL W. TAYLOR v. DEPARTMENT OF CORRECTIONS, 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.

LC NUMBERS:

NONE

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 02, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 04, 2013

The Court of Appeals hereby passes the following order

A13D0290. IN THE INTEREST OF: R. L. W. AND G. R. W., CHILDREN (MOTHER).

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

LC NUMBERS:

12JV972

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 04, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 11, 2013

The Court of Appeals hereby passes the following order

A13D0291. IN THE INTEREST OF: L. A. D. P., AND D. L. D., CHILDREN (MOTHER) v. STATE OF GEORGIA .

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

LC NUMBERS:

12JV01026 12JV01025

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 11, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 08, 2013

The Court of Appeals hereby passes the following order:

A13D0292. VINCENT TERRY et al. v. BE CAPITAL LENDING, LLC et al.

Vincent and Mashaun Terry seek discretionary review of a magistrate court order denying their motion to set aside orders and judgments, motion to vacate orders and judgments, motion to set aside and vacate a deed under power of sale, and motion to strike BE Capital Lending, LLC's petitions and pleadings in the magistrate court and the superior court in this dispossessory action.

Under OCGA § 15-10-41 (b) (1), appeals from magistrate court judgments must be taken to the state or superior court. *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991) ("The only avenue of appeal available from [a] 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.").

The Georgia Constitution requires that "[a]ny court shall transfer to the appropriate court in the state any civil case in which it determines that jurisdiction or venue lies elsewhere." Ga. Const. of 1983, Art. VI, Sec. I, Par. VIII; *Bosma v. Gunter*, 258 Ga. 664 (373 SE2d 368) (1988). Accordingly, this application, including the Terrys' pending motion to stay, is hereby TRANSFERRED to the Fulton County Superior Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/08/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 23, 2013

The Court of Appeals hereby passes the following order

A13D0293. BRYAN J. GARRETT v. CRE VENTURE 2001-1, LLC.

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

LC NUMBERS:

2012CV01181

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 23, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S14C1374 Atlanta, September 08, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WALLACE RUMPH v. THE STATE

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 petition be hereby denied.

All the Justices concur.

RECEIVED IN OFFICE
2014 SEP 29 PM 3:38
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Associated Cases
A14D0294

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta September 26, 2014

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.

Lui C. Britton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, May 16, 2014

The Court of Appeals hereby passes the following order

A14D0294. WALLACE RUMPH v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 16, 2014.

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

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

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 03, 2014

The Court of Appeals hereby passes the following order

A14D0294. WALLACE RUMPH v. THE STATE.

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

LC NUMBERS:

99CR128

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 03, 2014.

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

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

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 16, 2013

The Court of Appeals hereby passes the following order

A13D0295. IN THE INTEREST OF: V. M. W., AND K. E. B., CHILDREN (FATHER) .

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

LC NUMBERS:

1300036 1300037

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 16, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 16, 2013

The Court of Appeals hereby passes the following order:

A13D0296. HEADLEY LEOPOLD SCOTT v. EARL RANDALL.

Headley Scott seeks discretionary review of the trial court's final judgment, awarding $85,226 to plaintiff Earl Randall in his action for tortious interference with employment relationship. However, based on the limited record submitted with his application, the trial court's order appears to be directly appealable pursuant to OCGA § 5-6-34 (a) (1).

Under OCGA § 5-6-35 (j), this Court will grant an otherwise timely application for discretionary appeal if the order is subject to direct appeal. As the order at issue is subject to direct appeal, this application is hereby GRANTED. The appellant shall have 10 days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. The trial court is instructed to include a copy of this order in the appellate record.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 16, 2013

The Court of Appeals hereby passes the following order

A13D0297. CHO CARWASH PROPERTY, LLC et al v. DUSTIN EVERETT.

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.

LC NUMBERS:

13A00395

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 16, 2013.

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

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

Kelly K. A. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 12, 2013

The Court of Appeals hereby passes the following order:

A13D0298. JOHN L. WARD v. PRE-ENGINEER SYSTEMS, et al.

John L. Ward filed an application for discretionary appeal seeking review of the trial court's order reversing the award of the State Board of Workers' Compensation. We denied the application on the merits, and Ward filed a motion for reconsideration. We granted Ward's motion for reconsideration on August 8, 2013.

On September 3, 2013, Ward filed a "Motion to Vacate Order Dated August 8, 2013," in which he argues that due to a clerical error in this Court, he did not receive the order granting his application. It appears that Ward is correct. Therefore, Ward's motion is hereby *GRANTED*; this Court's prior order granting the application is *VACATED*; and the application is *GRANTED* and *REINSTATED*. Ward shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/12/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 25, 2013

The Court of Appeals hereby passes the following order

A13D0299. IN THE INTEREST OF: J. D., AND K. D., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

12JV00922 12JV00921

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 25, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 17, 2013

The Court of Appeals hereby passes the following order:

A13D0300. GURPARTAP SINGH TOOR v. THE STATE.

On August 30, 2012, Gurpartap Toor pled guilty to possession of cocaine with intent to distribute. On February 19, 2013, he filed a pro se application for discretionary appeal to the Supreme Court, seeking to void or vacate his sentence on the ground that the State lacked probable cause to arrest him. The Supreme Court transferred the case here upon finding that it lacked subject matter jurisdiction. We also lack jurisdiction to grant Toor the relief requested.

To the extent Toor seeks to appeal his August 30, 2012 conviction, we lack jurisdiction because this application is untimely. See OCGA § 5-6-35 (d) (applications for discretionary appeal must be filed within 30 days of the order on appeal); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Moreover, from the materials submitted, it appears that Toor has not filed any motion to vacate his sentence or withdraw his plea in the trial court. The only order included with his application is the judgment of conviction and sentence. Thus, to the extent that he seeks review of his motion to vacate or withdraw his plea and set aside conviction, we lack jurisdiction because the trial court apparently has not yet considered that motion. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010) (in the absence of a ruling by the trial court, we have nothing to review); see also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009) ("Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court.").

Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/17/2013

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

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

Holly K. D. Loma, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 19, 2013

The Court of Appeals hereby passes the following order:

A13D0301. SABRINA D. STRATTON v. THE STATE.

Sabrina Stratton has filed a pro se application for discretionary appeal from the trial court's order denying her motion to reduce/modify sentence. The trial court's order was entered on December 19, 2012, and Stratton filed her application on February 15, 2013.[1] We lack jurisdiction because Stratton's application is untimely.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Stratton filed her application 58 days after entry of the order she seeks to appeal. Therefore, her application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/19/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

[1] Stratton filed her application in the Supreme Court, which transferred the matter here.

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1777 Atlanta, November 18, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

GEORGE MICHAEL EUBANKS v. HENRY COUNTY BOARD OF EDUCATION

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0302

Costs paid: $300.00

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CLERK'S COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta December 05, 2013

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.

Sui C. Ritter, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, April 29, 2013

The Court of Appeals hereby passes the following order

A13D0302. GEORGE MICHAEL EUBANKS v. HENRY COUNTY BOARD OF EDUCATION.

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

LC NUMBERS:

SUCV2012004313

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 29, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 25, 2013

The Court of Appeals hereby passes the following order

A13D0303. IN THE INTEREST OF: B. W., A CHILD (MOTHER).

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1201540

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 25, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 17, 2013

The Court of Appeals hereby passes the following order:

A13D0304. LINNON PARKER et al. v. WAL-MART STORES, INC.

Linnon Parker, B. Thassanee Gutter-Parker, and minors Alyssa Gayles and Leilana Parker (collectively "the Parkers") filed an action in superior court asserting food poisoning claims against Wal-Mart Stores, Inc. On January 29, 2009, the trial court granted summary judgment to Wal-Mart. Although the application materials do not indicate exactly what transpired after the court granted summary judgment, it is undisputed that on December 14, 2010, the trial court entered an order dismissing the Parkers' timely appeal. The Parkers moved to set aside that order on the basis that they did not receive a copy of the order. The trial court then reissued the order dismissing the Parkers' appeal, and the Parkers filed a timely application for discretionary appeal from that order.

"The dismissal of an appeal by the trial court is subject to direct appeal." *Castleberry's Food Co. v. Smith*, 205 Ga. App. 859, 860 (424 SE2d 33) (1992); see also *American Medical Security Group v. Parker*, 284 Ga. 102, 103 (2) (663 SE2d 697) (2008). We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. The Parkers shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, they have already filed a notice of appeal from the order at issue, they need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/17/2013

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

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

Holly K. O. Loma, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 01, 2013

The Court of Appeals hereby passes the following order

A13D0305. KELLOGG BROWN ROOT SERVICES et al v. THAD F. HURLEY, JR..

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

LC NUMBERS:

2013CV16

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 01, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 26, 2013

The Court of Appeals hereby passes the following order

A13D0306. KEVIN LEWIS NICHOLS v. SEX OFFENDER REGISTRATION REVIEW BOARD.

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

LC NUMBERS:

2011CV206003

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 26, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 01, 2013

The Court of Appeals hereby passes the following order:

A13D0307. TIVOLI PROPERTIES, INC. et al. v. FSP ONE OVERTON PARK, LLC.

In this dispossessory action, Tivoli Properties, Inc. filed this discretionary application from the trial court's order granting a writ of possession to FSP One Overton Park, LLC and denying Tivoli's motions to set aside and to dismiss. The court granted the writ due to the tenant's failure to pay rent into the registry of the court pursuant to OCGA § 44-7-54. The action remains pending below, as the court has not yet adjudicated FSP's claim for damages. Thus, the order that Tivoli wishes to appeal is not a final judgment. See *Landor Condominium Consultants v. Bankers first Federal Sav. & Loan Assn.*, 198 Ga. App. 274 (401 SE2d 305) (1991).

Accordingly, Tivoli was required to follow the interlocutory application procedures set forth in OCGA § 5-6-34 (b), which include obtaining a certificate of immediate review from the trial court. OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Tivoli's failure to comply with the interlocutory appeal procedures deprives us of jurisdiction over this application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/01/2013

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

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

Holly K. D. Loumar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 01, 2013

The Court of Appeals hereby passes the following order:

A13D0308. JAMES E. GUESS v. THE STATE.

In 1996, James Guess pled guilty to hijacking a motor vehicle, armed robbery, and aggravated assault. Years later, he filed a motion to vacate and correct an allegedly void sentence. The trial court denied the motion, and Guess filed this application for discretionary appeal. We, however, lack jurisdiction.

An appeal may lie from an order denying a motion to correct a void sentence, but only if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*, 286 Ga. 216, 217 n. 1 (1) (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). A sentence is void only when the trial court imposes punishment that the law does not allow. *Jordan v. State*, 253 Ga. App. 510, 511 (1) (559 SE2d 528) (2002). "[A]ssertions taking issue with the procedure employed in imposing a valid sentence or questioning the fairness of an imposed sentence do not allege a sentence is void . . ." (Citation omitted.) *Coleman v. State*, 305 Ga. App. 680, 680-681 (700 SE2d 668) (2010); see also *Jones v. State*, 278 Ga. 669 (604 SE2d 483) (2004).

Guess does not argue that his sentence exceeded the statutory limits for the crimes to which he pled guilty. Instead, he contends that the trial court should have merged his aggravated assault conviction with his other convictions and that he received ineffective assistance of counsel. But these are challenges to his convictions, not to his sentence. See *Williams v. State*, 287 Ga. 192 (695 SE2d 244) (2010); *Brown v. State*, 297 Ga. App. 738 (678 SE2d 172) (2009). In the absence of a colorable void-sentence claim, we lack jurisdiction to consider this application, which is hereby DISMISSED. See *Harper*, supra.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/01/2013

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

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

Holly K. B. Sosniak, *Clerk.*

RECEIVED IN OFFICE
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COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1616 Atlanta, October 21, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JAMES E. GUESS v. THE STATE

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 petition be hereby writ dismissed.

All the Justices concur.

Court of Appeals Case No.
A13D0308

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta November 06, 2013

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.

Lui C. Britton, Chief Deputy Clerk

RECEIVED IN OFFICE
2013 NOV -6 PM 3:53
COURT OF APPEALS OF GA

Court of Appeals of the State of Georgia

ATLANTA, June 17, 2013

The Court of Appeals hereby passes the following order

A13D0308. JAMES E. GUESS v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 17, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 06, 2013

The Court of Appeals hereby passes the following order:

A13D0309. KELLY D. WEBSTER v. JOHN J. WEBSTER.

John Webster filed a petition against his ex-wife, Kelly Webster, to modify the custody, visitation, and child support provisions of the parties' 2003 divorce decree. The trial court issued an order in which it reduced child support. Kelly Webster filed this application for discretionary appeal of the trial court's order.

The issues in this case arise out of the child support provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony. Jurisdiction over actions to modify a divorce decree's child support provisions, therefore, lies in the Supreme Court. See *Spurlock v. Dept. of Human Resources*, 286 Ga. 512, 513 (1) (690 SE2d 378) (2010). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/06/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 01, 2013

The Court of Appeals hereby passes the following order:

A13D0310. GOTTFRIED A. KAPPELMEIER v. PDQ PROPERTY MANAGEMENT, INC., et al.

Gottfried A. Kappelmeier filed a document that he calls an "Application for Leave to Appeal," but which he labeled with the case number A13A1371, a direct appeal currently pending before this court. In deference to Kappelmeier's pro se status, see *Bennett v. Moody*, 225 Ga. App. 95, 96 (483 SE2d 350) (1997) (court considered appellant's brief, which failed to follow the court rules, in deference to appellant's pro se status), the clerk of this court has docketed the document as both an application for discretionary appeal from the trial court's order of November 7, 2012, denying his motion to recuse, and as his appellate brief in his direct appeal from the same order.

To the extent the document is an application for discretionary appeal, it is untimely. Kappelmeier filed his application on April 5, 2013, almost five months after the entry of the order he seeks to appeal. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Accordingly, this application for discretionary appeal is hereby ***DISMISSED***.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/01/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 02, 2013

The Court of Appeals hereby passes the following order

A13D0311. TECHNICAL COLLEGE SYSTEM OF GEORGIA et al v. SHARON L. MCGRUDER.

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.

LC NUMBERS:

2013RCCV00005



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 02, 2013.

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

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

Kelly K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 25, 2013

The Court of Appeals hereby passes the following order

A13D0312. IN THE INTEREST OF: B. W., A CHILD (FATHER).

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1201540

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 25, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1332 Atlanta, October 07, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DANIEL SPOTTSVILLE v. THE STATE

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 petition be hereby writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0313

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta October 22, 2013

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.

Sui C. Rutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, May 15, 2013

The Court of Appeals hereby passes the following order

A13D0313. DANIEL SPOTTSVILLE v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DISMISSED as untimely filed.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 15, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, April 16, 2013

The Court of Appeals hereby passes the following order

A13D0313. DANIEL SPOTTSVILLE v. THE STATE.

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

LC NUMBERS:

SU98CR1445

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, April 16, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 17, 2013

The Court of Appeals hereby passes the following order:

A13D0314. MORRIS SCOTT HOLMES v. THE STATE.

Morris Scott Holmes was convicted of felony murder and aggravated assault. His conviction was upheld by the Supreme Court in *Holmes v. State*, 275 Ga. 853 (572 SE2d 569) (2002). Following the denial of his extraordinary motion for new trial, Holmes filed an application for discretionary appeal in this Court. However, under our Constitution, the Supreme Court has appellate jurisdiction over "[a]ll cases in which a sentence of death was imposed or could be imposed." See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8). Because a penalty of death can be imposed for the crime of murder, jurisdiction is proper in the Supreme Court. See OCGA § 17-10-30 (b); *Neal v. State*, 290 Ga. 563, 572 (722 SE2d 765) (2012) (Hunstein, C. J., concurring); see also *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984) (directing this Court to transfer "all cases in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder"). Accordingly, Holmes' appeal is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/17/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1467 Atlanta, October 07, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JERALD JEROME DORSEY v. THE STATE

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 petition be hereby writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0315

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta October 22, 2013

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.

Sui C. Pritton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, May 02, 2013

The Court of Appeals hereby passes the following order:

A13D0315. JERALD JEROME DORSEY v. THE STATE.

On August 29, 2012, the trial court denied Jerald Jerome Dorsey's petition for a writ of error coram nobis. On April 5, 2013, Dorsey filed, in this Court, a package of documents indicating his desire to obtain appellate review of the trial court's order. Dorsey's filing was interpreted as an application for discretionary review and docketed accordingly.[1] We lack jurisdiction because the application is untimely.

An application for discretionary appeal must be filed within 30 days of entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Dorsey filed his application 219 days after the trial court's order was entered. Because his application is untimely, we lack jurisdiction to consider it, and it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/02/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

[1] "A writ of coram nobis is simply an extraordinary motion for new trial based on newly discovered evidence." *Wiley v. State*, 204 Ga. App. 881, 882 (4) (420 SE2d 783) (1992). Accordingly, Dorsey was required to follow the discretionary appeal procedures to obtain review of the trial court's August 29 order. See OCGA § 5-6-35 (a) (7).

Court of Appeals of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order:

A13D0316. JOHN BARTOW REYNOLDS, et al. v. FEDERAL NATIONAL MORTGAGE ASSOCIATION.

This application arises from a dispossessory action brought by Federal National Mortgage Association against John Bartow Reynolds and Mildred Lucille Reynolds in the Magistrate Court of Lamar County. The magistrate court granted a writ of possession, and the Reynoldses appealed to superior court. The Reynoldses amended their complaint several times, raising counterclaims against Federal National for conversion, punitive damages, conspiracy, and declaratory judgment, as well as several other claims against Chase Bank. Chase Bank filed a motion for summary judgment, and the Reynoldses voluntarily dismissed their counterclaims and amendments asserted against Chase Bank.

On March 7, 2013, the superior entered an order granting summary judgment to Federal National, dismissing the counterclaims with prejudice, and directing the issuance of a writ of possession to Federal National. On April 8, 2013, the Reynoldses filed this application for discretionary appeal.

Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). OCGA § 44-7-56 provides that an appeal from any dispossessory judgment must be filed within seven days of the date the judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Since OCGA § 44-7-56 requires a judgment in a dispossessory action to be appealed, whether directly or by

application, within seven days of the entry of the final judgment, this application is untimely. Accordingly, this application is hereby *DISMISSED* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/08/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order:

A13D0317. NANCY GASTEL v. STEPHEN RICHARD BARBER.

On March 8, 2013, the superior court entered an order granting a writ of possession to Stephen Richard Barber in this dispossessory action and awarding him attorney fees. Thirty-two days later, on April 9, 2013, Nancy Gastel filed this application for discretionary appeal, seeking review of that order. We, however, lack jurisdiction.

Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). OCGA § 44-7-56 provides that an appeal from any dispossessory judgment must be filed within seven days of the date the judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). In any event, this application is untimely under both the thirty-day general deadline and the seven-day dispossessory deadline. And this Court lacks jurisdiction to consider an untimely application. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Accordingly, this application is hereby *DISMISSED* for lack of jurisdiction.

Barber's motion for sanctions is hereby *DENIED*. Gastel's motions for denial of request for bond and for denial of frivolous appeal are likewise *DENIED*.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/08/2013

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

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

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 17, 2013

The Court of Appeals hereby passes the following order:

A13D0317. NANCY GASTEL v. STEPHEN RICHARD BARBER.

This Court dismissed as untimely Nancy Gastel's application for discretionary appeal in this dispossessory action. Gastel has now filed a "Motion to Accept Out of Time Appeal" and a motion for reconsideration. Upon review, both motions are hereby *DENIED.*

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/17/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 18, 2013

The Court of Appeals hereby passes the following order:

A13D0318. JEAN JOCELYN MERILIEN v. PANEL DELCHAM et al.

Jean Jocelyn Merilien, a prison inmate, seeks discretionary review of the trial court's February 1, 2013, order denying his request to proceed in forma pauperis in a wrongful death action. We lack jurisdiction.

Merilien's application for discretionary appeal was docketed in this Court on April 8, 2013, 66 days after the entry of the order he seeks to appeal. An application for discretionary appeal must be filed within 30 days of the order on appeal. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Therefore, Merilien's application is untimely from the order denying his request to proceed as a pauper. Because we lack jurisdiction to consider this untimely appeal, it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/18/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 09, 2013

The Court of Appeals hereby passes the following order

A13D0319. IN THE INTEREST OF: C. B., AND D. B., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

2011JV120 2011JV121

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 09, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 02, 2013

The Court of Appeals hereby passes the following order:

A13D0320. DARRELL E. BROWN v. THE STATE.

Darrell Brown was convicted of multiple offenses, including aggravated assault, aggravated battery, and kidnapping, and his convictions were affirmed on appeal. See *Brown v. State*, 275 Ga. App. 99 (619 SE2d 789) (2005). In this application for discretionary appeal, Brown seeks to appeal the trial court's order denying various pro se motions.[1]

Although Brown's argument is difficult to decipher, he appears to argue that his convictions for aggravated assault and aggravated battery should have merged for sentencing purposes. But Brown raised a merger argument on direct appeal, which we rejected. See *Brown*, supra at 106 (5). The law of the case rule precludes Brown from relitigating this issue. See *Ross v. State*, 310 Ga. App. 326, 327-328 (713 SE2d 438) (2011). This application for discretionary appeal is thus DISMISSED.

Given that Brown was seeking to relitigate an issue decided in his direct appeal, this application is frivolous. OCGA § 42-12-7.2 provides:

> In no event shall a prisoner file any action in forma pauperis in any court of this state if the prisoner has, on three or more prior occasions while he or she was incarcerated or detained in any facility, filed any action in any court of this state that was subsequently dismissed on the grounds that such action was frivolous or malicious, unless the prisoner is under

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[1] Since this Court issued its decision in *Brown v. State*, Brown has filed 10 actions challenging his conviction and/or sentence.

imminent danger of serious physical injury.

We thus caution Brown that if he continues to file meritless motions, he may find future claims barred by OCGA § 42-12-7.2.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/02/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 03, 2013

The Court of Appeals hereby passes the following order:

A13D0321. WILLIE ANDERSON v. INLAND AMERICAN RETAIL MANAGEMENT COMPANY, LLC.

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 the State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/03/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 24, 2013

The Court of Appeals hereby passes the following order:

A13D0322. GEGE ODION v. TITILAYO A. ODION.

Gege Odion and Titilayo Odion were divorced in 2003. The Gwinnett County Superior Court entered a final judgment and decree. Titilayo Odion has filed three subsequent actions since the divorce, all involving contempt against Gege Odion related to child support arrearages. On October 17, 2012, Gege Odion filed an Application for New Award of Custody and Complaint for Contempt in Gwinnett County Superior Court. Titilayo Odion counterclaimed for contempt based on child support arrearages. She also filed a Motion to Dismiss for Inconvenient Forum. The trial court granted the motion to dismiss, finding that Texas is a more appropriate forum to hear the contempt and modification action. In the order, the trial court directed the Clerk of Court to "ADMINISTRATIVELY CLOSE" the case. Gege Odion filed this application for discretionary appeal.[1]

The superior court's order dismissing Gege Odion's Application and Complaint is a final, directly appealable order within the meaning of OCGA § 5-6-34 (a). Moreover, no provision of OCGA § 5-6-35 (a) relating to discretionary appeals appears to apply to the order. This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Gege Odion shall have ten days from the date of this order to file a notice of appeal with the trial court. The clerk of the trial court is DIRECTED to include a copy of this order in the record

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[1] We initially transferred the case to the Supreme Court, but it returned the case to this Court after finding that no issue of divorce or alimony is presented.

transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/24/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, April 29, 2013

The Court of Appeals hereby passes the following order:

A13D0322. GEGE ODION v. TITILAYO A. ODION.

Gege Odion and Titilayo Odion were divorced in 2003. The Gwinnett County Superior Court entered a final judgment and decree. Titilayo Odion has filed three subsequent actions since the divorce, all involving contempt against Gege Odion related to child support arrearages. On October 17, 2012, Gege Odion filed an Application for New Award of Custody and Complaint for Contempt in Gwinnett Superior Court. Titilayo Odion counterclaimed for contempt based on child support arrearages. She also filed a Motion to Dismiss for Inconvenient Forum. The trial court granted the motion to dismiss, finding that Texas is a more appropriate forum to hear the contempt and modification action. Gege Odion filed an application for discretionary appeal in this Court.

The issues in this case arise out of the child support and custody provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6); see *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008) (an appeal from a judgment in a contempt action seeking to enforce any portion of the divorce decree other than child custody is ancillary to divorce and alimony and falls within the Supreme Court's jurisdiction). In Georgia, child support is a form of alimony. *Smith v. Smith*, 254 Ga. 450, 451 (1) (330 SE2d 706) (1985) (the purpose of alimony is to provide *support* for the needy spouse and minor children). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/29/2013

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

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

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 02, 2013

The Court of Appeals hereby passes the following order

A13D0323. IN THE INTEREST OF: C. R. B., AND K. L. B., CHILDREN (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1201423 1201503 1201424 1201502

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 02, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order:

A13D0324. ALBERT BETHELMIE v. HERITAGE PLACE, LLC.

Heritage Place, LLC sued Albert Bethelmie to recover damages owed on a commercial lease agreement, and Bethelmie failed to file a timely answer or move to open the default judgment against him. On March 14, 2013, the trial court entered a final judgment, awarding total damages of $24,939.50, plus post-judgment interest to Heritage Place. Bethelmie filed this application for discretionary appeal from the trial court's final judgment.

This is an appeal from a final judgment. See *Lanier v. Foster*, 133 Ga. App. 149, 153 (3) (210 SE2d 326) (1974). It is not an appeal from the denial of the motion to set aside, as contemplated by OCGA § 5-6-35 (a) (8), nor does it fall within any other provision of OCGA § 5-6-35 (a). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements. This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. Therefore, this application is GRANTED as required under OCGA § 5-6-35 (j).

Bethelmie 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, 05/08/2013

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

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

Holly K. B. Sosniak, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 03, 2013

The Court of Appeals hereby passes the following order

A13D0325. PERSONNEL OPTIONS et al v. ANTWAUN DAVIS.

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.

LC NUMBERS:

13CV0063

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 03, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order

A13D0326. JAVON SMITH 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.

LC NUMBERS:

2012CV218845

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 08, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 02, 2013

The Court of Appeals hereby passes the following order:

A13D0327. KENNETH HOGAN et al. v. MARY DALE BROWN et al.

Mary Dale Brown and James Hubert Lee, the paternal grandparents of minor child K. A. L., filed a petition for grandparent visitation. Kenneth and Kim Hogan, who previously adopted the child, were named as respondents. After the court entered an amended final order on the petition, the Hogans filed this application for discretionary appeal.

Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody" are directly appealable. The effect of this broad language is that a party seeking to appeal any order in a child custody case is no longer required to comply with the discretionary appeal procedure of OCGA § 5-6-35 (a) (2). See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). Under Georgia law, "[v]isitation is considered a custody issue." *Daniels v. Barnes*, 289 Ga. App. 897, 899 n. 1 (658 SE2d 472) (2008); see also OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is in issue."). Thus, the order that the Hogans seek to appeal is directly appealable.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. The Hogans shall have ten days from the date of this order to file a notice of appeal with the trial court. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/02/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 02, 2013

The Court of Appeals hereby passes the following order:

A13D0327. KENNETH HOGAN et al. v. MARY DALE BROWN et al.

Mary Dale Brown and James Hubert Lee, the paternal grandparents of minor child K. A. L., filed a petition for grandparent visitation. Kenneth and Kim Hogan, who previously adopted the child, were named as respondents. After the court entered an amended final order on the petition, the Hogans filed this application for discretionary appeal.

Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody" are directly appealable. The effect of this broad language is that a party seeking to appeal any order in a child custody case is no longer required to comply with the discretionary appeal procedure of OCGA § 5-6-35 (a) (2). See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). Under Georgia law, "[v]isitation is considered a custody issue." *Daniels v. Barnes*, 289 Ga. App. 897, 899 n. 1 (658 SE2d 472) (2008); see also OCGA § 19-9-41 (4) (defining "child custody proceeding" as "a proceeding in which legal custody, physical custody, or visitation with respect to a child is in issue."). Thus, the order that the Hogans seek to appeal is directly appealable.

This Court will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. The Hogans shall have ten days from the date of this order to file a notice of appeal with the trial court. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/02/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 15, 2013

The Court of Appeals hereby passes the following order

A13D0328. CLARENDON AMERICA INSURANCE CO., v. D.R. HORTON, 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.

LC NUMBERS:

12CV02449

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 15, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order

A13D0329. METROPOLITAN ATLANTA REGIONAL TRANSIT AUTHORITY ("MARTA") v. KATHY THOMPSON.

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.

LC NUMBERS:

2013CV226655

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 08, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 06, 2013

The Court of Appeals hereby passes the following order

A13D0330. IN THE INTEREST OF: D. R. O., A CHILD (FATHER) .

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

LC NUMBERS:

1201568 1300014

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 06, 2013.

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

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

Holly K. O. Sparrow *, Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 09, 2013

The Court of Appeals hereby passes the following order

A13D0331. F/S MANUFACTURING, INC., v. LESA KENSMOE (AKA LESA BERGSON).

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

LC NUMBERS:

2011SV79

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 09, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 07, 2013

The Court of Appeals hereby passes the following order

A13D0332. MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN 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.

LC NUMBERS:

NONE

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 07, 2013.

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

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

Kelly K. O. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 15, 2013

The Court of Appeals hereby passes the following order

A13D0333. AMERICAN TIRE DISTRIBUTORS, et al v. DANNY PRITCHARD.

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

LC NUMBERS:

13A00709

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 15, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order

A13D0335. JUSTIN JAY v. GEORGIA DEPARTMENT OF DRIVER SERVICES.

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

LC NUMBERS:

12CV620

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 08, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 18, 2013

The Court of Appeals hereby passes the following order

A13D0336. ABDUL MALIK CHESTNUT v. CITIMORTGAGE, INC.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 18, 2013.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 01, 2013

The Court of Appeals hereby passes the following order:

A13D0336. ABDUL MALIK CHESTNUT v. CITIMORTGAGE, INC.

On April 18, 2013, Abdul Malik Chestnut filed this application for discretionary review of the trial court's order of September 4, 2012, granting the defendants' motion to dismiss in this dispossessory action.[1] We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the order on appeal. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989).

Because we lack jurisdiction to consider this untimely application, it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/01/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

[1] In Case No. A13A0760, Chestnut filed an untimely direct appeal from this same order, which this Court dismissed on January 9, 2013, because of its untimeliness and Chestnut's failure to follow the discretionary appeal procedures.

Court of Appeals
of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A13D0337. ALITHIA MECH v. THOMAS PATRICK BERNATITUS.

Alithia Mech (f/k/a Alithia M. Bernatitus) and Thomas Bernatitus were divorced in 2004. Bernatitus was awarded physical custody of the children, and Mech was ordered to pay child support. Bernatitus filed a motion for contempt for failure to pay child support, which was granted. After Mech failed to comply with the court's order, the court entered a second order finding her in contempt, ordering her to comply with the terms of the divorce decree and to pay child support, and awarding fees. Mech then filed this application for discretionary appeal from the order of contempt.

The issues in this case arise out of the child support provisions of a divorce decree. Although the Court of Appeals may review cases relating solely to child custody, the Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6). In Georgia, child support is a form of alimony. Additionally, because Bernatitus's action was based on an alleged violation of the parties' divorce decree, appellate jurisdiction lies in the Supreme Court. See *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

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.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order

A13D0338. SHERRYE DIANNE HUFF v. NADA E. MCINTOSH INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF BERNICE T.EVANS.

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

LC NUMBERS:

SU12CV0008

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 20, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order

A13D0339. JEFFREY C. RHEM v. CLAYTON COUNTY SUPERIOR COURT, GEORGIA DEPT. OF LABOR, CEVA LOGISTICS.

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

LC NUMBERS:

2011CV0959

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 20, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 09, 2013

The Court of Appeals hereby passes the following order:

A13D0340. JAMES GLENN JONES v. THE STATE.

In 2009, James Glenn Jones pled guilty to aggravated assault and was given an eight-year sentence, to run concurrently with a federal sentence. He subsequently moved to withdraw his guilty plea and void his allegedly illegal sentence. On March 28, 2013, the trial court denied his motion. Jones then filed this application for discretionary appeal.

Although Jones's motion may have been untimely, orders resolving out-of-time motions to withdraw guilty pleas have been treated by our Supreme Court as directly appealable. See *Ellison v. State*, 283 Ga. 461 (660 SE2d 373) (2008); *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008). Accordingly, based on the limited information included in this application, it appears that the trial court's order is subject to direct appeal.

We will grant an otherwise timely application for discretionary appeal if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED, and Jones shall have ten days from the date of this order to file a notice of appeal with the trial court. If he has already filed a notice of appeal in the trial court, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/09/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 16, 2013

The Court of Appeals hereby passes the following order:

A13D0341. MICHAEL ALFRED MAESTREY v. THE STATE.

Michael Maestrey filed this application for discretionary appeal from the trial court's order denying his plea in bar, which was based on constitutional speedy trial grounds. We lack jurisdiction.

The Supreme Court of Georgia has recently ruled that to obtain immediate appellate review of such an order, a defendant must follow the interlocutory appeal procedures of OCGA § 5-6-34 (b). *Sosniak v. State*, 292 Ga. 35 (2) (734 SE2d 362) (2012); see also *Stevens v. State*, 292 Ga. 218 (734 SE2d 743) (2012). Accordingly, Maestrey was required to follow the interlocutory application procedures set forth in OCGA § 5-6-34 (b), which include obtaining a certificate of immediate review from the trial court. OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Maestrey's failure to comply with the interlocutory appeal procedures deprives us of jurisdiction over this application, which is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/16/2013

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

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

Holly K. A. Lamour, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order:

A13D0342. ISAAC MORRIS v. RICHARD ALLEN HUNT.

By order entered January 10, 2013, the trial court denied the filing of prison inmate Isaac Morris's motion to modify a fee arbitration award he obtained against his attorney. Morris filed a motion for reconsideration, which the court denied by order entered January 30, 2013. On March 12, 2013, Morris filed this application for discretionary appeal.[1] We, however, lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the order on appeal. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). This application was filed 61 days after the order denying filing and 41 days after the order denying reconsideration. Therefore, it is untimely. In addition, Morris had no right to appeal the order denying his motion for reconsideration, which is not an appealable order. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). For these reasons, we lack jurisdiction to consider this application, which is hereby *DISMISSED*.

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[1] Morris filed the application in the Supreme Court, which later transferred it here.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/20/2013

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order

A13D0343. IN THE INTEREST OF: M. E., A CHILD .

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

LC NUMBERS:

12JV0980

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 20, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order:

A13D0344. ABDUL MALIK CHESTNUT v. CITIMORTGAGE, INC.

On April 23, 2013, Abdul Malik Chestnut filed this application for discretionary appeal. He seeks review of several superior court orders, which were entered on November 19, December 11, and December 19, 2012. We lack jurisdiction because the application is untimely.

An application for discretionary appeal must be filed within 30 days of entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Because Chestnut did not file his application within 30 days of entry of the orders he seeks to review, we lack jurisdiction to consider it. Accordingly, it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/20/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 15, 2013

The Court of Appeals hereby passes the following order

A13D0345. MICHAEL E. GUNDY et al v. WELLS FARGO BANK, N.A..

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

LC NUMBERS:

2011CV56475

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 15, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 15, 2013

The Court of Appeals hereby passes the following order:

A13D0346. SHARLA GAYE ODOM v. JAMES WENDELL BROWN, JR.

Sharla Gaye Odom filed this application for discretionary appeal, seeking to appeal several orders including an order denying her contempt motion.[1] Because the petition for contempt is based on alleged violations of a divorce decree, jurisdiction lies in the Supreme Court, which has appellate jurisdiction over "[a]ll divorce and alimony cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); see *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court of Georgia for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/15/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence , *Clerk.*

[1] Although the order was entered January 30, 2012, it was not final because the trial court reserved the issue of attorney fees. See *CitiFinancial Services, Inc. v. Holland*, 310 Ga. App. 480, 481 (713 SE2d 678) (2011); compare *Hill v. Buttram*, 255 Ga. App. 123, 124 (564 SE2d 531) (2002) (reservation of OCGA § 9-15-14 attorney fee issue does not extend time for filing notice of appeal).

Court of Appeals of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order

A13D0347. IN THE INTEREST OF: K. H., K. H., K. H., JR., K. H., AND K. H., CHILDREN (MOTHER) .

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

LC NUMBERS:

2012J0555 2012J0556 2012J0557 2012J0558 2012J0559

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 20, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 08, 2013

The Court of Appeals hereby passes the following order:

A13D0348. RANDY SHIELDS v. THE STATE.

Randy Shields was convicted of rape, aggravated sodomy, aggravated assault with intent to rape, and false imprisonment. He was sentenced as a recidivist to life without parole. We affirmed his convictions and sentence on appeal. *Shields v. State*, 264 Ga. App. 232 (590 SE2d 217) (2003). Shields later filed a motion to vacate a void sentence. By order entered February 20, 2013, the trial court denied the motion. On April 11, 2013, Shields filed this application for discretionary appeal.[1] We, however, lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith." *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because Shields's application was filed 50 days after entry of the order he seeks to appeal, it is untimely, and it is accordingly DISMISSED for lack of jurisdiction.

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[1] Shields attempted to file the application earlier, but this Court could not accept it for filing because Shields included neither the statutory filing fee nor a pauper's affidavit as required by OCGA § 5-6-4 and Court of Appeals Rule 5.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/08/2013

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

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

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 21, 2013

The Court of Appeals hereby passes the following order:

A13D0349. ALTONIO M. BROOKS v. THE STATE.

On March 27, 2012, Altonio M. Brooks pled guilty to and was sentenced for felony shoplifting, possession of tools for the commission of a crime, and criminal trespass. Shortly thereafter, Brooks moved to withdraw his guilty plea. The trial court denied the motion on June 7, 2012. Over 10 months later, Brooks filed this application for discretionary appeal from the June 7, 2012 order. Although the denial of a motion to withdraw a guilty plea is directly appealable under OCGA § 5-6-35 (j), see *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008), we lack jurisdiction to consider Brooks' application because it is untimely.

To be timely, an application for discretionary appeal must be filed within 30 days of entry of the order, judgment or decision at issue. See OCGA § 5-6-35 (d). Brooks' application was not filed until more than 10 months after entry of the order he seeks to appeal, and it is thus untimely. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Accordingly, we lack jurisdiction to consider the untimely application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/21/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 16, 2013

The Court of Appeals hereby passes the following order

A13D0350. MATT ECHOLS CONSTRUCTION, LLC v. SHAWN SMITH.

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.

LC NUMBERS:

13SUCV26

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 16, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 19, 2013

The Court of Appeals hereby passes the following order

A13D0351. KIMBLEY H. JOHNSON v. TERRY JOHNSON.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 19, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 21, 2013

The Court of Appeals hereby passes the following order

A13D0351. KIMBLEY H. JOHNSON v. TERRY JOHNSON.

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

LC NUMBERS:

12CV5521

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 21, 2013.

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

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

Holly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 19, 2013

The Court of Appeals hereby passes the following order

A13D0352. KIMBLEY H. JOHNSON v. TERRY JOHNSON.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 19, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 21, 2013

The Court of Appeals hereby passes the following order

A13D0352. KIMBLEY H. JOHNSON v. TERRY JOHNSON.

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

LC NUMBERS:

12CV8433

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 21, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order

A13D0353. HUGH MACK THOMPSON et al v. LORI WILKINS.

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

LC NUMBERS:

12291

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 31, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 29, 2013

The Court of Appeals hereby passes the following order:

A13D0354. BRISTOL MYERS SQUIBB COMPANY v. SARVAJNA SHETH.

Bristol Myers Squibb Company ("BMSC") filed this discretionary application seeking review of the superior court's order in this workers' compensation case. BMSC now moves to withdraw the application because "the parties . . . have agreed upon a compromise of the pending cause of action." BMSC's motion to withdraw is hereby GRANTED, and the application is deemed WITHDRAWN.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/29/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order

A13D0355. WILLIE F. WRIGHT, JR., v. JAMMIE SMITH.

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.

LC NUMBERS:

12CV46236

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 23, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order:

A13D0356. DANIEL TAYLOR v. FULTON COUNTY SUPERIOR COURT, et al.

On April 24, 2013, Daniel Taylor filed an application for discretionary appeal of the trial court's order denying his pro se motion to proceed *in forma pauperis* in his conspiracy suit against Fulton County Superior Court, the Fulton County Superior Court Clerk of Court, and Fulton County Superior Court Judge Kimberly Esmond. The order attached to the application was signed on February 25, 2013, but was not stamped "filed" as required by Court of Appeals Rule 31 (e). A stamped "filed" copy is required in order for this Court to ascertain that the application was filed within 30 days of the order being challenged, which is a jurisdictional prerequisite. See OCGA § 5-6-35 (d) (application must be filed within 30 days of the entry of the order appealed); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (OCGA § 5-6-35 requirements are jurisdictional). On April 30, 2013, this Court directed Taylor to supplement the application with a stamped "filed" copy of the order sought to be appealed within 10 days of the April 30 order. We noted that failure to comply with this directive would result in dismissal of his application. Although Taylor filed another copy of the trial court's order, it also is not stamped "filed," and we cannot, therefore, determine whether his application for discretionary appeal is timely. Because more than 10 days have passed since we issued the April 30, 2013 order and Taylor has failed to file a stamped "filed" copy of the order denying his motion to proceed *in forma pauperis*, his application is hereby DISMISSED.

Taylor has also filed a motion for extension of time to re-file his application for discretionary appeal, but this Court lacks the authority to grant an extension of time

for the filing of an application for discretionary appeal where the request for an extension is not filed before the expiration of the period for filing as originally prescribed. See *Gable v. State*, 290 Ga. 81, 85 (2) (a) (720 SE2d 170) (2011); OCGA § 5-6-39 (d). Because Taylor has not provided us with a stamped "filed" copy of the order he wishes to appeal, we cannot determine if this motion was timely filed. Accordingly, Taylor's motion is DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 16, 2013

The Court of Appeals hereby passes the following order:

A13D0357. MARYBETH S. BERINGER v. JIMMY R. EMORY, JR.

Marybeth Beringer and Jimmy Emory, Jr. divorced in 2005. Emory filed a petition for contempt based on Beringer's violation of the divorce decree. The trial court ruled in Emory's favor, and Beringer applied for discretionary appeal. See Case No. A13D0114. We granted her application pursuant to OCGA § 5-6-35 (j), because orders in child custody cases are subject to direct appeal. See OCGA § 5-6-34 (a) (11). After her application was granted, Beringer filed a notice of appeal and the case was docketed as A13A1031. In the course of that appeal, Beringer asked us to compel the production of a hearing transcript. Because it was unclear whether Beringer was entitled to a copy of that transcript, we remanded the case to the trial court for a ruling on that issue. See Case No. A13A1031, Order of Feb. 13, 2013. On remand, the trial court issued an order ruling that Beringer is not entitled to the transcript. Beringer then filed this application for discretionary appeal.

The trial court's latest order is, like its previous orders, subject to direct appeal as an order in a child custody case. See OCGA § 5-6-34 (a) (11). Accordingly, this application is hereby GRANTED pursuant to OCGA § 5-6-35 (j). See OCGA § 5-6-34 (a) (11). Beringer shall have ten days from the date of this order to file a notice of appeal with the trial court, if she has not already done so. See OCGA § 5-6-35 (g). The clerk of the trial court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/16/2013

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

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

Holly K. O. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order

A13D0358. CITY OF ATLANTA et al v. WILLIE ADAMS.

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

LC NUMBERS:

2011CV209366

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 20, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order

A13D0359. INDEPENDENT LIVING AIDS et al v. NANCY DECKER.

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

LC NUMBERS:

SU13CV0038

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 23, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 22, 2013

The Court of Appeals hereby passes the following order

A13D0360. MARK A. SMITH v. CARL B. PEARL.

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

LC NUMBERS:

CV121352

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 22, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order:

A13D0361. STERLING T. FULLER v. THE STATE.

On May 1, 2013, Sterling Fuller filed an application for discretionary review, seeking to appeal the trial court's February 13, 2013 order revoking probation. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith." *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because Fuller's application was filed outside the 30-day period, it is untimely, and it is accordingly DISMISSED for lack of jurisdiction.[1]

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

[1] Fuller attempted to file his application with this Court on March 27, 2013, but his application was returned to him because he did not include the requisite fee or pauper's affidavit, did not include a stamped "filed" copy of the trial court's order, and did not include a certificate of service. This filing was also outside the 30-day period.

Court of Appeals
of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order:

A13D0361. STERLING T. FULLER v. THE STATE.

On May 1, 2013, Sterling Fuller filed an application for discretionary review, seeking to appeal the trial court's February 13, 2013 order revoking probation. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith." *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because Fuller's application was filed outside the 30-day period, it is untimely, and it is accordingly DISMISSED for lack of jurisdiction.[1]

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

[1] Fuller attempted to file his application with this Court on March 27, 2013, but his application was returned to him because he did not include the requisite fee or pauper's affidavit, did not include a stamped "filed" copy of the trial court's order, and did not include a certificate of service. This filing was also outside the 30-day period.

Court of Appeals
of the State of Georgia

ATLANTA, May 30, 2013

The Court of Appeals hereby passes the following order:

A13D0362. NOBLE PARKING, INC. v. CENTERGY ONE ASSOCIATES, LLC, et al.

Centergy One Associates, LLC, et al., filed a civil action against Noble Parking, Inc., asking the court to enjoin Noble from operating a parking lot on a specific piece of land. The City of Atlanta joined the case as an intervenor plaintiff, and filed a complaint seeking the same relief. In its motion to intervene, the City stated that the case was related to a pending administrative appeal from the City's Board of Zoning Adjustment. After the trial court entered summary judgment in favor of the plaintiffs, Noble filed this application for discretionary review.

The trial court's orders are directly appealable. See OCGA § 9-11-56 (h) and OCGA § 5-6-34 (a) (4). Although this appeal is related to an administrative appeal, Noble does not seek review of the superior court's ruling in that appeal. Accordingly, this appeal does not fall within OCGA § 5-6-35 (a) (1), which provides that parties seeking appellate review of "decisions of the superior courts reviewing decisions . . . state and local administrative agencies" must follow the discretionary appeal procedures.

Ordinarily, we will grant a timely application when the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). In this case, however, it appears that Noble has already filed a notice of appeal from the trial court's order. Accordingly, this application is superfluous, and it is therefore DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 05/30/2013

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

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

Holly K. D. Loarca, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 21, 2013

The Court of Appeals hereby passes the following order

A13D0363. SHON O. OWENS v. LAYTONA JONES OWENS.

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.

LC NUMBERS:

07A05249

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 21, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 31, 2013

The Court of Appeals hereby passes the following order:

A13D0364. GREGORY J. LOWE v. THE STATE.

Gregory Lowe pled guilty to armed robbery, kidnapping with bodily injury, giving a false name, and theft by taking in April of 1998. In March of 2013, Lowe filed an extraordinary motion to modify his sentence and to void his judgment of conviction. The trial court denied the motion, and Lowe filed an application for discretionary appeal.

Lowe argues that his conviction and sentence are void because he was mentally ill when he entered his plea and that he received ineffective assistance of counsel. Although a direct appeal may lie from an order denying a motion to correct a void sentence, "a petition to vacate or modify a judgment of conviction is not an appropriate remedy in a criminal case."[1] Any appeal from an order denying or dismissing such a motion must be dismissed.[2]

A direct appeal may lie from an order denying or dismissing a motion to correct a void sentence, but only if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper*, supra at n.1; *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). A sentence is void only when the trial court imposes punishment that the law does not allow. *Jordan v. State*, 253 Ga. App. 510, 511 (1) (559 SE2d 528) (2002). Here, Lowe does not assert a valid void sentence claim, arguing instead that his conviction was void due to his mental state. Lowe also

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[1] *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009).

[2] See *Harper*, supra; *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010).

claims his counsel was ineffective, but a motion alleging ineffective assistance of counsel does not assert a ground upon which a sentence can be declared void. See *Brown v. State*, 297 Ga. App. 738 (678 SE2d 172) (2009).

Because Lowe is precluded from attacking his conviction and has not raised a colorable void-sentence claim, his appeal is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/31/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 21, 2013

The Court of Appeals hereby passes the following order

A13D0365. KESSLER, SCHWARZ & SOLOMIANY, P.C., et al v. LAYTONA JONES OWENS.

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.

LC NUMBERS:

07A05249

COURT OF APPEALS OF THE STATE OF GEORGIA
1906

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 21, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order:

A13D0366. CORNELIUS HASTON, JR. et al. v. HOMEWARD RESIDENTIAL, INC.

Cornelius and Sandra Haston filed this application for discretionary appeal seeking review of the trial court's order dismissing defendant Homeward Residential, Inc. from this wrongful foreclosure case. It appears from the materials submitted, however, that two other defendants remain in the case.

"In 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 Corp. of America*, 192 Ga. App. 628, 629 (385 SE2d 731) (1989). And OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Because the Hastons failed to comply with the Court's interlocutory appeal procedure, this discretionary application is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 24, 2013

The Court of Appeals hereby passes the following order:

A13D0367. ABDULLAH M. RASHEED v. THE STATE.

Abdullah Rasheed was convicted of armed robbery, aggravated assault, and two counts of false imprisonment on March 16, 2001. We affirmed his convictions and sentence on appeal. See *Rasheed v. State*, Case Number A02A0524 (decided April 25, 2002). Rasheed has since filed several post conviction motions attacking his convictions and sentence, all of which have been denied or dismissed. On March 18, 2013, the trial court denied Rasheed's motion for void sentence and judgment. On May 1, 2013, Rasheed filed this application for discretionary appeal. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "The requirements of OCGA § 5-6-35 are jurisdictional and this court cannot accept an appeal not made in compliance therewith." *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because Rasheed's application was filed outside the 30-day period, it is untimely, and it is accordingly DISMISSED for lack of jurisdiction.

We further note that the last two appeals filed by Rasheed were deemed frivolous, and we cautioned Rasheed that if he continued to file such appeals, he may find all future claims barred by OCGA § 42-12-7.2. See Case Numbers A12A0762 and A12A0763 (decided Dec. 30, 2011). This appeal, once again challenging his conviction, is likewise frivolous. See *Echols v. State*, 243 Ga. App. 775, 776 (534 SE2d 464) (2000) (the same issue cannot be relitigated *ad infinitum*). Rasheed is, therefore, barred from filing any other in forma pauperis actions unless he is under

imminent danger of serious physical injury:

> In no event shall a prisoner file any action in forma pauperis in any court of this state if the prisoner has, on three or more prior occasions while he or she was incarcerated or detained in any facility, filed any action in any court of this state that was subsequently dismissed on the grounds that such action was frivolous or malicious, unless the prisoner is under imminent danger of serious physical injury.

OCGA § 42-12-7.2.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/24/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 06, 2013

The Court of Appeals hereby passes the following order

A13D0368. MARC REECE v. SHARLA REECE.

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

LC NUMBERS:

13CV0638

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 06, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 23, 2013

The Court of Appeals hereby passes the following order:

A13D0369. FRANKLIN ABREU v. ROSEMARIE ABREU.

Franklin Abreu filed this application for discretionary appeal, seeking to appeal a superior court order denying his contempt petition. Because it appears that the petition for contempt is based on alleged violations of a divorce decree, jurisdiction lies in the Supreme Court, which has appellate jurisdiction over "[a]ll divorce and alimony cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); see *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court of Georgia for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loumar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 31, 2013

The Court of Appeals hereby passes the following order

A13D0370. VERMELLE REED v. BERNARD REED.

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.

LC NUMBERS:

2012P005575

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 31, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order:

A13D0371. MATTHEW HOWARD v. GMAC MORTGAGE, LLC.

GMAC Mortgage, LLC filed this dispossessory action against Matthew Howard in June 2010 following a foreclosure sale. After Howard asserted various counterclaims seeking injunctive relief and damages greater than $15,000, the magistrate court transferred the matter to superior court. The superior court held an evidentiary hearing and then, on December 8, 2010, entered a writ of possession in favor of GMAC.

Howard appealed to this Court,[1] and we affirmed. See *Howard v. GMAC Mortgage, LLC*, __ Ga. App. __ (739 SE2d 453) (Case No. A12A1931, decided March 7, 2013). Six days after our opinion issued, Howard filed a motion in superior court to set aside the December 2010 writ of possession on the ground that the transfer from magistrate court had been improper. The superior court did not rule on Howard's motion to set aside. Instead, it entered a second writ of possession in favor of GMAC. From that writ, Howard filed this application for discretionary appeal.

Where the questions presented on appeal have become moot, an appeal is subject to dismissal. See OCGA § 5-6-48 (b) (3). "An appeal becomes moot if the rights insisted upon could not be enforced by a judicial determination." *Randolph County v. Johnson*, 282 Ga. 160 (1) (646 SE2d 261) (2007). Here, our March 7, 2013 opinion affirming the superior court's entry of a writ of possession served as a final adjudication of the dispute between the parties. See *Aetna Casualty & Surety Co. v.*

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[1] Howard filed an application for discretionary appeal, which was granted under OCGA § 5-6-35 (j). See Case No. A11D0200, decided December 29, 2010.

Bullington, 227 Ga. 485 (2) (181 SE2d 495) (1971). Under these circumstances, Howard no longer has any right with respect to the underlying dispossessory action that may be enforced by judicial action in the superior court or that can be affected by appellate review of the superior court's order. Accordingly, Howard's application is hereby DISMISSED as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/07/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 24, 2013

The Court of Appeals hereby passes the following order:

A13D0372. SHEENA ADAMS v. THE STATE.
A13D0378. SHEENA ADAMS v. THE STATE.

On March 27, 2013, Sheena Adams filed a pro se application for discretionary appeal, styled "Complaint for Probation Revocation in Habeas Corpus," in the Supreme Court, which transferred it to this Court. We docketed the application as Case Number A13D0372. On May 13, 2013, Adams filed virtually an identical pro se application for discretionary appeal, styled "Complaint for Probation Revocation," in this Court, and we docketed the application as Case Number A13D0378.[1] Both applications purportedly seek appellate review of various probation revocations, the latest of which occurred on November 6, 2012. Adams' applications also refer to various other pleadings, such as "Motion to set aside Judgment," "Motion to Dismiss," "Motion for a Directed Verdict," "Motion for Leave," "Motion for a Finding of Not Guilty," and "Motion for a Judgment of Acquittal." However, no orders related to such motions have been included in the applications. We lack jurisdiction.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because Adams did not file the applications within the 30-day period, we lack jurisdiction to consider them. An applicant to this

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[1] Adams filed an earlier application for discretionary appeal in this Court, but it was dismissed on February 28, 2013 after she failed to timely submit a stamped "filed" copy of the order she wished to appeal. See Case Number A13D0222.

Court bears the burden of demonstrating that her application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Adams has failed to demonstrate that this Court has jurisdiction to consider the applications.[2] Accordingly, these applications are hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/24/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

[2] To the extent Adams is requesting this Court to take action, we are unable to do so because this Court is established for the correction of errors of law and has no original jurisdiction. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010) (in the absence of a ruling by the trial court, we have nothing to review); see also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009) ("Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court."). We, therefore, lack jurisdiction to grant Adams the relief she appears to be requesting.

Court of Appeals
of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order

A13D0373. MANO KAHMISSI-SOBI v. MEHRDAD AREFI NEZHAD.

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

LC NUMBERS:

1219332

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 07, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order:

A13D0374. ERIC DAVID DIETZ v. FOUT BROTHERS, INC., et al.

Eric David Dietz filed an application for discretionary appeal from the superior court order affirming the award of the State Board of Workers' Compensation. We dismissed the application as untimely filed on the 31st day. Dietz filed a motion for reconsideration from this ruling, demonstrating that the application was timely filed.

Dietz's motion for reconsideration is hereby GRANTED. Our previous order dismissing this application is VACATED and the application is REINSTATED. Upon review of the merits, however, the application is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/07/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 05, 2013

The Court of Appeals hereby passes the following order

A13D0375. MARION L. TIDWELL v. MARK BUTLER, COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR et al..

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

LC NUMBERS:

CV121721

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 05, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 11, 2013

The Court of Appeals hereby passes the following order

A13D0376. CLINT JOHNSON v. ATHENS-CLARKE COUNTY GOVERNMENT.

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

LC NUMBERS:

SU13CV0142

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 11, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 11, 2013

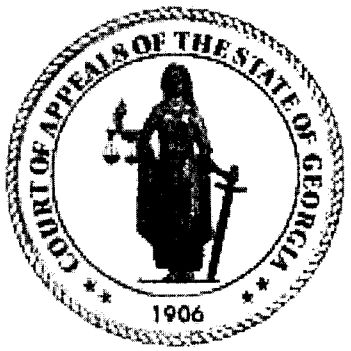
The Court of Appeals hereby passes the following order

A13D0377. MAGNOLIA STATE BANK , A DIVISION OF BANK OF EASTMAN v. VNS CORPORATION d/b/a CHOO CHOO BUILD-IT MART.

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.

LC NUMBERS:

03V1042



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 11, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1409 Atlanta, October 07, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SHEENA ADAMS v. THE STATE

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 petition be hereby writ denied.

All the Justices concur.

Court of Appeals Case No.
A13D0378, A13D0372

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta October 22, 2013

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.

Lui C. Britton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, May 24, 2013

The Court of Appeals hereby passes the following order:

A13D0372. SHEENA ADAMS v. THE STATE.
A13D0378. SHEENA ADAMS v. THE STATE.

On March 27, 2013, Sheena Adams filed a pro se application for discretionary appeal, styled "Complaint for Probation Revocation in Habeas Corpus," in the Supreme Court, which transferred it to this Court. We docketed the application as Case Number A13D0372. On May 13, 2013, Adams filed virtually an identical pro se application for discretionary appeal, styled "Complaint for Probation Revocation," in this Court, and we docketed the application as Case Number A13D0378.[1] Both applications purportedly seek appellate review of various probation revocations, the latest of which occurred on November 6, 2012. Adams' applications also refer to various other pleadings, such as "Motion to set aside Judgment," "Motion to Dismiss," "Motion for a Directed Verdict," "Motion for Leave," "Motion for a Finding of Not Guilty," and "Motion for a Judgment of Acquittal." However, no orders related to such motions have been included in the applications. We lack jurisdiction.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because Adams did not file the applications within the 30-day period, we lack jurisdiction to consider them. An applicant to this

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[1] Adams filed an earlier application for discretionary appeal in this Court, but it was dismissed on February 28, 2013 after she failed to timely submit a stamped "filed" copy of the order she wished to appeal. See Case Number A13D0222.

Court bears the burden of demonstrating that her application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Adams has failed to demonstrate that this Court has jurisdiction to consider the applications.[2] Accordingly, these applications are hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/24/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow, *Clerk.*

[2] To the extent Adams is requesting this Court to take action, we are unable to do so because this Court is established for the correction of errors of law and has no original jurisdiction. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010) (in the absence of a ruling by the trial court, we have nothing to review); see also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009) ("Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court."). We, therefore, lack jurisdiction to grant Adams the relief she appears to be requesting.

Court of Appeals
of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order

A13D0379. MICHAEL D. PECK et al. v. LANIER GOLF CLUB, 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.

LC NUMBERS:

07CV2147

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 07, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S14C1653 Atlanta, September 08, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SNYDER'S-LANCE et al. v. WILLIE STANLEY

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 petition be hereby denied.

All the Justices concur.

Associated Cases
A14D0380

Costs paid: $80.00

RECEIVED IN OFFICE
2014 SEP 29 PM 3:32
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta September 26, 2014

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.

Lisa C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, June 05, 2013

The Court of Appeals hereby passes the following order

A13D0380. THE STATE v. JEREMIAH ALEXANDER SMART.

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.

LC NUMBERS:

2009SUCR242

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 05, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order

A13D0381. DAVID E. FRAZIER v. THE STATE.

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

LC NUMBERS:

00SC02472

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 07, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 04, 2013

The Court of Appeals hereby passes the following order:

A13D0382. SUSA NASA v. CORIZON HEALTH, INC., et al.

Susa Nasa filed a pro se complaint about the medical treatment he received while in pretrial custody. The defendants moved to dismiss the action, and on November 26, 2012, the trial court granted their motion. On February 11, 2013, Susa Nasa filed a pro se application for discretionary appeal of that ruling, which we dismissed because it was untimely. *Susa-Nasa v. Medical Contractor Corizon et al.*, Case No. A13D0245 (decided March 12, 2013). It appears from the application presently before us that Susa Nasa attempted to file another pro se complaint about the medical treatment he received while in pretrial custody. On April 8, 2013, the trial court signed an order denying Susa Nasa's request to proceed in forma pauperis and dismissing the complaint. On May 13, 2013, Susa Nasa filed a pro se application for discretionary appeal of this order. The order he included with his application, however, is not stamped "filed" as required by OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e). We, therefore, are unable to determine whether Susa Nasa timely filed his application for discretionary review. See OCGA § 5-6-35 (d) (an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed).

As the applicant, Susa Nasa bears the burden of establishing that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Given the dearth of information he provided with his application, we are unable to assume jurisdiction. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (the

requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an appeal not made in compliance therewith). Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/04/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order

A13D0383. HYOUNG G. KIM v. YVONNE HUNT et al..

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

LC NUMBERS:

12A10650

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 07, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 12, 2013

The Court of Appeals hereby passes the following order

A13D0384. OCMULGEE EMC et al. v. KASABIAN MCDUFFIE.

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.

LC NUMBERS:

13V6705

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 12, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, May 16, 2013

The Court of Appeals hereby passes the following order:

A13D0385. FRED L. MURRAY, JR. v. U-HAUL COMPANY INCORPORATED.

Fred L. Murray has filed an emergency motion to stay the lien sale of his personal property by U-Haul Company Incorporated. Pursuant to Rule 40 (b), we may issue such orders as are necessary to prevent the contested issue from becoming moot. "This power will be exercised sparingly." See Ga. Ct. App. R. 40 (b). Because we are granting Murray's application for discretionary appeal, a Rule 40 (b) order is necessary to prevent this appeal from becoming moot. Accordingly, his emergency motion is GRANTED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, May 20, 2013

The Court of Appeals hereby passes the following order:

A13D0386. W. CRAIG GREEN et al. v. MULLER REAL ESTATE HOLDINGS LLC.

Before this Court is Marty Green's application for discretionary appeal. Green has failed to point to any evidence supporting the assertions in his application, and he cites no legal authority to support his claims of error. Green's application for discretionary appeal, therefore, is DENIED. See generally OCGA § 5-6-35 (c) (an application for discretionary appeal "should include a copy of the petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion); *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989) (holding that the "applicant bears the burden of demonstrating that the application should be granted," including providing necessary materials for the appellate court's review). Green's "Motion for Emergency Relief For Stay of Pending Orders and Eviction" is also DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/20/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loma , *Clerk.*

Court of Appeals of the State of Georgia

PROPOSED ORDER (A13D0386.93) May 20, 2013 (by Doyle)	
AGREE	DISAGREE
mym WMR	

ATLANTA,

The Court of Appeals hereby passes the following order:

A13D0386. W. CRAIG GREEN et al. v. MULLER REAL ESTATE HOLDINGS LLC.

Before this Court is Marty Green's application for discretionary appeal. Green has failed to point to any evidence supporting the assertions in his application, and he cites no legal authority to support his claims of error. Green's application for discretionary appeal, therefore, is DENIED. See generally OCGA § 5-6-35 (c) (an application for discretionary appeal "should include a copy of the petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion); *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989) (holding that the "applicant bears the burden of demonstrating that the application should be granted," including providing necessary materials for the appellate court's review). Green's "Motion for Emergency Relief For Stay of Pending Orders and Eviction" is also DENIED.

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

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

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

Kelly K. A. Loomer , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, June 12, 2013

The Court of Appeals hereby passes the following order

A13D0387. KASABIAN MCDUFFIE v. OCMULGEE EMC, 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.

LC NUMBERS:

13V6705

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 12, 2013.

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

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

Kelly K. O. Spence , *Clerk.*

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SUPREME COURT OF APPEALS OF GA
COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1670 Atlanta, November 18, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

TERRANCE ONEAL MATHIS v. THE STATE

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0388

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta December 05, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, July 16, 2013

The Court of Appeals hereby passes the following order:

A13D0388. TERRANCE ONEAL MATHIS v. THE STATE.

On June 14, 2013, this Court dismissed Terrance Mathis's application for discretionary appeal. We noted that Mathis had failed to file his application within 30 days of the entry of the order he sought to appeal in accordance with OCGA § 5-6-35 (d). On June 28, 2013, Mathis filed a pro se motion for reconsideration. However, this motion is 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. Because Mathis filed his motion for reconsideration more than ten days from the rendition of our judgment, this Court is without jurisdiction to consider the motion for reconsideration, which is hereby **DENIED**.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 14, 2013

The Court of Appeals hereby passes the following order:

A13D0388. TERRANCE ONEAL MATHIS v. THE STATE.

On April 12, 2013, Terrance Mathis filed an application for discretionary appeal of a June 28, 2012 trial court order denying his motion for preliminary hearing, notice for appointment of counsel, and production order.[1] We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "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); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because Mathis's application was filed outside the 30-day period, it is untimely, and it is accordingly DISMISSED for lack of jurisdiction. Mathis's "Motion for Objective" is hereby DENIED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

[1] The case was originally filed in the Supreme Court, which transferred it to this Court.

Court of Appeals of the State of Georgia

ATLANTA, September 24, 2013

The Court of Appeals hereby passes the following order:

A13D0389. DAVID SHANYFELT v. WACHOVIA MORTGAGE CORPORATION.

David Shanyfelt seeks reconsideration of our June 17, 2013, order dismissing his application for discretionary review. In his motion for reconsideration, Shanyfelt acknowledges that his application was untimely, but asserts that this was because the trial court did not provide him with timely notice of its ruling.

Because it is untimely, we are without jurisdiction to review Shanyfelt's application. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (the requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an appeal not made in compliance therewith). Accordingly, his motion for reconsideration is hereby DENIED.

As to Shanyfelt's contention that the trial court frustrated his ability to seek appellate review by failing to notify him of its order in a timely manner, his remedy is to petition the trial court to vacate and re-enter the order. See *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-49 (1) (269 SE2d 426) (1980). Contrary to Shanyfelt's argument, we must dismiss and cannot merely vacate and remand. There is nothing to the contrary in *Brown v. E.I. du Pont de Nemours & Co.*, 240 Ga. App. 893, 895, 525 S.E.2d 731, 733-34 (1999). In *Brown* we vacated and remanded only the single order from which a timely notice of appeal was filed; Brown's untimely appeals from other orders were dismissed. As to the dismissed untimely appeals, Brown's sole remedy was – and Shanyfelt's sole remedy is – the *Cambron* procedure. As explained in language quoted on page 9 of Shanyfelt's Motion for Reconsideration, that procedure is a motion filed in the trial court, pursuant to OCGA § 9-11-60 (g),

requesting that the order from which Shanyfelt seeks to appeal be vacated and reentered so that he can then file a timely notice of appeal from the reentered order. Although the trial court is now in a different term of court, that will not prevent it from vacating and re-entering its order on this ground. See *Miranda v. Stewart*, 312 Ga. App. 290 (718 SE2d 123) (2011).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/24/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 17, 2013

The Court of Appeals hereby passes the following order:

A13D0389. DAVID SHANYFELT v. WACHOVIA MORTGAGE CORPORATION.

On March 11, 2013, the superior court entered an order granting a writ of possession to Wachovia Mortgage Corporation in this dispossessory action. Twenty-one days later, on April 1, 2013, David Shanyfelt filed this application for discretionary appeal, seeking review of that order.[1] We, however, lack jurisdiction.

Generally, an application for discretionary appeal must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). But the underlying subject matter of an appeal controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). OCGA § 44-7-56 provides that an appeal from any dispossessory judgment must be filed within seven days of the date the judgment was entered. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Because OCGA § 44-7-56 requires a judgment in a dispossessory action to be appealed within seven days of the entry of the final judgment, this application is untimely. Accordingly, it is hereby DISMISSED.

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[1] Shanyfelt filed his application in the Supreme Court, which transferred the matter here.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/17/2013

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

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

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 13, 2013

The Court of Appeals hereby passes the following order:

A13D0390. JEFFERY BRIAN WILLIAMS v. THE STATE.

On April 10, 2013, Jeffery Brian Williams filed this discretionary application, seeking to appeal the trial court's March 7, 2013 order denying bond.[1] We lack jurisdiction for two reasons. First, the application is untimely. To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, however, Williams filed his application 34 days after entry of the order he seeks to appeal.

Second, "[t]he interlocutory appeal procedures set forth in OCGA § 5-6-34 (b) are required to obtain review of an order denying or setting pre-trial bond." *Mullinax v. State*, 271 Ga. 112 (1) (515 SE2d 839) (1999); see also *Howard v. State*, 194 Ga. App. 857 (392 SE2d 562) (1990). Compliance with the interlocutory appeal procedures includes obtaining a certificate of immediate review from the trial court within ten days of entry of the order to be appealed. See OCGA § 5-6-34 (b). Williams' failure to follow the interlocutory appeal procedure deprives us of jurisdiction to consider his discretionary application. For these reasons, this application is hereby DISMISSED.

After this application was docketed, Williams filed two pro se motions, including a "Motion for Documents and Recordings at Government Expense" and a

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[1] Williams is charged with multiple offenses, including possession of methamphetamine with intent to distribute, attempting to elude, obstruction, and aggravated assault.

"Petition/Motion for Legal Material." These motions are hereby DISMISSED as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/13/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 18, 2013

The Court of Appeals hereby passes the following order

A13D0391. JACQUES RENE BERUBE v. RACHELLE ANNE WILLETTE.

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

LC NUMBERS:

2011CV205111

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 18, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 13, 2013

The Court of Appeals hereby passes the following order:

A13D0392. EARLING ROWE v. DEKALB COUNTY, GEORGIA et al.

Following his conviction of a traffic offense in the DeKalb County Recorder's Court, Earling Rowe filed a petition for certiorari in the superior court. On January 30, 2013, the superior court dismissed the petition on the ground that Rowe failed to prove that he had properly served one of the respondents. Rowe filed a "Motion to Vacate Judgment," which – in effect – sought reconsideration of the dismissal order. The trial court denied that order. Rowe filed another motion for reconsideration, which the trial court also denied. On May 20, 2013, Rowe filed this application for discretionary appeal. We, however, lack jurisdiction.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). The proper and timely filing of the application is an absolute requirement to confer appellate jurisdiction upon this Court. See *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995). Filing a motion for reconsideration does not extend the 30-day time period, and the denial of a motion for reconsideration is not itself an appealable order.[1] See *Ferguson v. Freeman*, 282 Ga. 180, 181 (1) (646 SE2d 65) (2007). Because this application was filed more than 30 days after the dismissal order that Rowe seeks to challenge, we lack jurisdiction

[1] There are two exceptions to this rule. The denial of a motion for reconsideration of an interlocutory order may serve as the basis for an application for interlocutory appeal, and the denial of a motion denominated as one for reconsideration but raising the grounds for a motion to set aside may be appealed by discretionary application. See *Ferguson*, supra. Neither exception applies here.

to consider it. The application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/13/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. B. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 07, 2013

The Court of Appeals hereby passes the following order

A13D0393. CLAYTON COUNTY BOARD OF EDUCATION v. SYLVIA WESLEY.

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.

LC NUMBERS:

2012CV3517

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 07, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 18, 2013

The Court of Appeals hereby passes the following order

A13D0394. STEVEN DAVID DEMPSEY v. THE STATE.

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

LC NUMBERS:

130090

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 18, 2013.

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

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

Kelly K. A. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 12, 2013

The Court of Appeals hereby passes the following order

A13D0395. IN THE INTEREST OF: D. P., A CHILD (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1300156

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 12, 2013.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 21, 2013

The Court of Appeals hereby passes the following order

A13D0396. KENYOTTA TURNER v. CHARLIE SANDERS.

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

LC NUMBERS:

SU12CV1934

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 21, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 14, 2013

The Court of Appeals hereby passes the following order:

A13D0397. DARIUS O. CRUMPTON v. THE STATE.

In November 2011, the trial court revoked the balance of Darius O. Crumpton's probation after finding that he had committed new felony offenses. Crumpton apparently filed a motion for new trial, though he has not included a copy of that motion in his application materials. By order entered May 2, 2013, the trial court denied the motion for new trial. On May 20, 2013, Crumpton filed this application for discretionary appeal.

An application is timely if it is filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d). In order for this Court to have jurisdiction, an application for discretionary appeal must be timely filed. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Although a motion for new trial may extend the time in which appellate relief may be sought, that motion must also be filed within 30 days of the entry of judgment. OCGA § 5-5-40 (a); OCGA § 5-6-35 (d). An untimely motion for new trial is void and does not toll the time for filing the application. See *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990).

Because Crumpton has not included the motion for new trial with his application, we cannot determine whether the motion was timely filed, and thus whether it tolled the time for filing this application. An applicant to this Court bears the burden of demonstrating that his application should be granted. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). An applicant must "include a copy of any petition or motion which led directly to the order or judgment being appealed . . . ." OCGA § 5-6-35 (c); Court of Appeals Rule 31 (b). By omitting the motion for new trial from his application, Crumpton has failed to demonstrate that this Court has

jurisdiction to consider his application. Thus, this application for discretionary appeal is hereby *DISMISSED*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar, *Clerk.*

RECEIVED IN OFFICE
2013 NOV -6 PM 3:53
CLERK COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1570 Atlanta, October 21, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ANGELO BERNARD BANKS v. GEORGIA DEPARTMENT OF CORRECTIONS

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0398

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta November 06, 2013

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.

Lisa C. Hilton, Chief Deputy Clerk

RECEIVED IN OFFICE
2013 NOV -6 PM 3:53
COURT OF APPEALS OF GA

Court of Appeals of the State of Georgia

ATLANTA, June 11, 2013

The Court of Appeals hereby passes the following order:

A13D0398. ANGELO BERNARD BANKS v. GEORGIA DEPARTMENT OF CORRECTIONS.

Prison inmate Angelo Banks attempted to file a tort claim against the Georgia Department of Corrections. On April 3, 2013, the trial court dismissed Banks's claim, finding that he failed to comply with the Georgia Tort Claims Act's ante litem notice requirements. Banks filed a motion for new trial, which the trial court denied on April 26, 2013, noting that no trial was held in the matter. On May 23, 2013, Banks filed this application for discretionary appeal from the trial court's order. We, however, lack jurisdiction.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). The proper and timely filing of the application is an absolute requirement to confer appellate jurisdiction upon this Court. See *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995). Here, Banks filed a motion for new trial which, when timely filed, extends the time for filing an appeal. See OCGA § 5-6-38 (a). However, "[w]here a motion for new trial is not a proper vehicle for review of a trial court's action, the motion has no validity and will not extend the time for filing the notice of appeal." *Pillow v. Seymour*, 255 Ga. 683, 684 (341 SE2d 447) (1986). Generally, a party cannot move for new trial if no trial has been had. In this case, there was no trial or taking of original evidence, and Banks's motion for new trial was in substance a mere motion for reconsideration. A motion for reconsideration is not appealable in its own right, nor does it extend the time for appealing from the final order previously entered in the case. *Bell v. Cohran*, 244 Ga.

App. 510 (536 SE2d 187) (2000).

Because Banks did not file a timely application for discretionary appeal from the April 3, 2013 order, and because his motion for reconsideration did not otherwise extend the time to file such an appeal, this application is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/11/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loanoa, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 24, 2013

The Court of Appeals hereby passes the following order

A13D0399. CHARLOTTE DUDLEY v. MARK BUTLER, COMMISSIONER OF LABOR FOR STATE OF GEORGIA et al. .

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

LC NUMBERS:

12CV13620

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 24, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 20, 2013

The Court of Appeals hereby passes the following order

A13D0400. JERRY A. COOK v. AMERICAN HONDA MOTOR COMPANY, INC..

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

LC NUMBERS:

CV20130089

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 20, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 26, 2013

The Court of Appeals hereby passes the following order:

A13D0400. JERRY A. COOK v. AMERICAN HONDA MOTOR COMPANY, INC.

Having considered the Motion for Reconsideration of the denial of Jerry A. Cook's Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 20, 2013

The Court of Appeals hereby passes the following order:

A13D0401. HEADLEY LEOPOLD SCOTT v. EARL RANDALL.

In Case No. A13D0296, Headley Leopold Scott filed an application for discretionary review of the trial court's final judgment, awarding $85,226 to plaintiff Earl Randall in his action for tortious interference with employment relationship. Because the order was directly appealable, this Court granted Scott's application, pursuant to OCGA § 5-6-35 (j).[1] In the instant case, Scott has filed an application for discretionary review of the trial court's order requiring him to post a supersedeas bond in the amount of $90,552.62, which reflects the amount of the final judgment, plus interest. As there is nothing left to be decided by the trial court, the post-judgment order requiring the supersedeas bond is also subject to direct appeal. See *Owens v. Green Tree Servicing LLC*, 300 Ga. App. 22, 24-25 (2) (684 SE2d 99) (2009); OCGA § 5-6-34 (a) (1).

Under OCGA § 5-6-35 (j), this Court will grant an otherwise timely application for discretionary appeal if the order is subject to direct appeal. As the order at issue is subject to direct appeal, this application is hereby GRANTED. The appellant shall have 10 days from the date of this order to file a notice of appeal with the trial court, if he has not already done so. The trial court is instructed to include a copy of this order in the appellate record.

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[1] The direct appeal has not yet been docketed in this Court.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/20/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 26, 2013

The Court of Appeals hereby passes the following order:

A13D0402. VENUS MORGAN v. DAVID FORDHAM.

Venus Morgan filed this application for discretionary appeal from the trial court's order awarding custody of the parties' three minor children to their father, David Fordham. Pursuant to OCGA § 5-6-34 (a) (11), a direct appeal is authorized from "[a]ll judgments in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders." Because the order at issue here modified child custody, it was directly appealable.

We will grant a timely-filed discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Morgan shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 14, 2013

The Court of Appeals hereby passes the following order:

A13D0403. CONZENA BENJAMIN v. VIVIAN COMPTON et al.

Vivian Compton and I-Land Breeze, LLC., sued Conzena Benjamin to recover damages allegedly owed on a commercial lease. Benjamin failed to file a timely answer, and the case went into default. On April 30, 2013, the trial court entered a final judgment, awarding total damages of $28,500.00, plus post-judgment interest to Compton and I-Land Breeze. Benjamin filed this application for discretionary appeal from the trial court's final judgment.

This is an appeal from a final judgment. See *Lanier v. Foster*, 133 Ga. App. 149, 153 (3) (210 SE2d 326) (1974). It is not an appeal from the denial of a motion to set aside, as contemplated by OCGA § 5-6-35 (a) (8), nor does it fall within any other provision of OCGA § 5-6-35 (a). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements. This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. Therefore, this application is GRANTED as required under OCGA § 5-6-35 (j).

Benjamin 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, 06/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 27, 2013

The Court of Appeals hereby passes the following order:

A13D0404. JOHN MICHAEL DEVONE, SR. v. BRITTANY N. FINLEY.

On March 8, 2013, the trial court issued an order awarding custody of minor child J. M. D. to his mother, Brittany Finley. On April 19, John Devone, Sr., the child's biological father, filed this application for discretionary appeal.[1] Finley filed a motion to dismiss the application, arguing that it was not timely filed.

The trial court's order was directly appealable under OCGA § 5-6-34 (a) (11). Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application. See OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v State*, 204 Ga App 582 (420 SE2d 393) (1992). Here, Devone filed his application 42 days after the trial court's order was entered. Accordingly, the application is untimely and must be dismissed for lack of jurisdiction. See *Hill*, supra.

Finley's motion to dismiss is hereby GRANTED, and this application is DISMISSED.

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[1] Devone filed his application in the Supreme Court, which transferred the matter here.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/27/2013

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

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

Holly K. B. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order

A13D0405. ANTOINETTE A. DWYER v. ARTHUR A. DWYER et al. .

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

LC NUMBERS:

2009CV176432

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 28, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order

A13D0406. ANTOINETTE A. DWYER v. ARTHUR A. DWYER.

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

LC NUMBERS:

2009CV176432

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 28, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S14C1756 Atlanta, September 22, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

KENETRIA ROSS v. THE STATE

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 petition be hereby denied.

All the Justices concur.

Associated Cases
A14D0406

Costs paid: $80.00

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta October 08, 2014

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.

Lui C. Britton , Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, June 27, 2013

The Court of Appeals hereby passes the following order

A13D0407. IN THE INTEREST OF: N. U. G., A CHILD (MOTHER).

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

LC NUMBERS:

1300206

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 27, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

RECEIVED IN OFFICE
2014 JAN 22 PM 3:45
COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S14C0059 Atlanta, January 06, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHEL THOMAS v. ROLLINS, INC., d/b/a ORKIN, INC., et al.

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0408

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta January 22, 2014

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.

Lisa C. Hilton, Chief Deputy Clerk

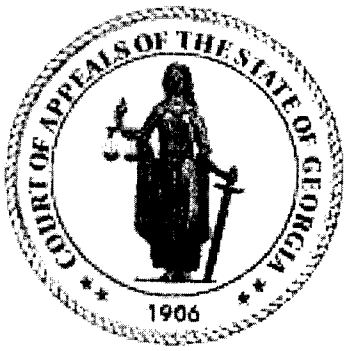
Court of Appeals
of the State of Georgia

ATLANTA, August 26, 2013

The Court of Appeals hereby passes the following order

A13D0408. MICHEL THOMAS v. ROLLINS, INC., d/b/a ORKIN, INC., et al..

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 26, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 24, 2013

The Court of Appeals hereby passes the following order

A13D0408. MICHEL THOMAS v. ROLLINS, INC., d/b/a ORKIN, INC., et al..

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

LC NUMBERS:

2013444

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 24, 2013.

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

Witness my signature and the seal of said court hereto affixed the dav and vear last above written.

Holly K. O. Sparrow *, Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 18, 2013

The Court of Appeals hereby passes the following order

A13D0409. LATASHA PARSONS v. CAPITAL ALLIANCE FINANCIAL, 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.

LC NUMBERS:

2012124

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 18, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 27, 2013

The Court of Appeals hereby passes the following order:

A13D0410. IN THE INTEREST OF: N. H., A CHILD (MOTHER).

April Lowe seeks reconsideration of our June 27, 2013, order dismissing her application for discretionary review. We dismissed the application as untimely. In her motion for reconsideration, Lowe urges us to overlook her application's untimeliness because of the delay between the trial court's entry of its order and that order's appearance in the trial court's electronic filing system.

We are not authorized to grant her this relief. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (the requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an appeal not made in compliance therewith). Accordingly, Lowe's motion for reconsideration is hereby DENIED.

To the extent Lowe contends that the trial court frustrated her ability to seek appellate review by failing to notify her of its order in a timely manner, her remedy is to petition the trial court to vacate and re-enter the order. See *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-49 (1) (269 SE2d 426) (1980).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/27/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 27, 2013

The Court of Appeals hereby passes the following order:

A13D0410. IN THE INTEREST OF: N. H., A CHILD (MOTHER).

On October 26, 2012, the trial court terminated the mother's parental rights to minor child N. H. Forty-one days later, on December 6, 2012, the mother moved for a new trial. The trial court denied the mother's motion, and she filed this application for discretionary appeal on June 3, 2013.

We lack jurisdiction. An application for discretionary review must be filed within 30 days of the order to be appealed. OCGA § 5-6-35 (d). Although a motion for new trial generally extends this deadline, such a motion is not valid unless it is filed within 30 days after entry of judgment. See id.; OCGA § 5-5-40 (a); *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990). Here, because the mother failed to file her motion for new trial within 30 days of the order terminating her parental rights, the motion is void and did not toll the application deadline. See *Wright*, supra. Accordingly, her application, filed 220 days after entry of the termination order, is hereby DISMISSED as untimely. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/27/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 11, 2013

The Court of Appeals hereby passes the following order:

A13D0411. JARVIS AUGUSTUS WARE v. THE STATE.

A jury convicted Jarvis Augustus Ware of murder, and his conviction was affirmed on appeal. See *Ware v. State*, 279 Ga. 17 (608 SE2d 643) (2005). Ware subsequently filed a motion for an out-of-time appeal, which the trial court denied. Ware filed an application for discretionary appeal from this ruling.

Under our Constitution, the Supreme Court has appellate jurisdiction over "[a]ll cases in which a sentence of death was imposed or could be imposed." See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8). Because a penalty of death can be imposed for the crime of murder, jurisdiction is proper in the Supreme Court. See OCGA § 17-10-30 (b); *Neal v. State*, 290 Ga. 563, 572 (722 SE2d 765) (2012) (Hunstein, J., concurring); see also *State v. Thornton*, 253 Ga. 524 (322 SE2d 711) (1984) (directing this Court to transfer "all cases in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder"); *McCrary v. State*, 215 Ga. 887 (1) (114 SE2d 133) (1960). Accordingly, Ware's appeal is hereby TRANSFERRED to the Supreme Court for disposition. See *McCrary*, supra.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/11/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 01, 2013

The Court of Appeals hereby passes the following order

A13D0412. DWAINE HOLLAND v. RANSTAD, INC..

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

LC NUMBERS:

CE1201700063

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 01, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 01, 2013

The Court of Appeals hereby passes the following order:

A13D0413. JACK GALARDI et al. v. CITY OF FOREST PARK et al.

The City of Forest Park revoked the business and alcohol licenses of two restaurants/nightclubs owned by Jack Galardi. Galardi and the businesses (collectively, "Galardi") applied for certiorari in the superior court, which affirmed the revocation. The superior court rejected Galardi's argument that the city code that the businesses allegedly violated was unconstitutional. Galardi now seeks discretionary review in this Court, claiming among other things that the superior court wrongly determined that the city code was constitutional.

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. Because this application involves a constitutional challenge to a city ordinance, it is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/01/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 27, 2013

The Court of Appeals hereby passes the following order:

A13D0414. NATHAN FISHER v. THE STATE.

Nathan Fisher entered a plea of guilty in 2000, and the trial court denied his motion to withdraw his guilty plea. More than 12 years after entry of the trial court's order, Fisher filed an application for discretionary appeal, which we dismissed as untimely. See *Fisher v. State*, Case No. A13D0176 (decided Jan. 14, 2013). Fisher has now filed another application for discretionary appeal, labeling it "Direct Appeal of Motion to Correct Void Sentences." We lack jurisdiction.

From the materials submitted, it appears that Fisher has not filed any motion to correct void sentences in the trial court. Not a single order has been included with his application. Thus, to the extent that he seeks review of his motion to correct void sentences, we lack jurisdiction because the trial court apparently has not yet considered that motion. See *Amica v. State*, 307 Ga. App. 276, 282 (2) (704 SE2d 831) (2010) (in the absence of a ruling by the trial court, we have nothing to review); see also *Ward v. State*, 299 Ga. App. 826, 827 (683 SE2d 894) (2009) ("Inasmuch as we are a court for the correction of errors, we do not consider issues which were not raised below and ruled on by the trial court.").

Accordingly, this application is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/27/2013

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

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

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 12, 2013

The Court of Appeals hereby passes the following order:

A13D0414. NATHAN FISHER v. THE STATE.

On June 27, 2013, this Court dismissed Nathan Fisher's application for discretionary appeal. We noted that Fisher had neither identified nor included any specific trial court order that he wished to appeal. On July 5, 2013, Fisher filed a motion for reconsideration, attaching copies of a number of motions, but still not providing this Court with an order from which he is timely appealing. Although Fisher's motion once again argues the merits of his appeal, it does not address or dispute the facts supporting our dismissal of his application.

Motions for reconsideration will be granted "only when it appears that the Court overlooked a material fact in the record, a statute or a decision which is controlling as authority and which would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority." Court of Appeals Rule 37 (e). Fisher has not shown that any of these bases exists. Although he has attempted to rectify the problem with his application by attaching motions that he wishes to appeal, he has failed to provide any specific orders rendered by the trial court. Moreover, "a motion for reconsideration or attachment thereto, like a brief, cannot be used as a procedural vehicle for adding evidence or fact representations to the record." *Culberson v. Fulton-DeKalb Hosp. Authority*, 201 Ga. App. 347 (411 SE2d 75) (1991). Fisher's motion for reconsideration is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/12/2013

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

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

Kelly K. O. Lomax, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 02, 2013

The Court of Appeals hereby passes the following order:

A13D0415. ALBERT G. BANTLEY v. NLP FINANCE, LLC, et al.

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

Applicant's motion to stay proceedings on the application is also DENIED.

In addition, Appellee's motion to dismiss the application is DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/02/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 02, 2013

The Court of Appeals hereby passes the following order

A13D0416. RAYMOND JONES v. TAMIKA JONES.

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

LC NUMBERS:

10CV10101

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 02, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order:

A13D0417. WENDY TAYLOR v. CITY OF HIRAM.

Wendy Taylor filed this application for discretionary appeal on May 22, 2013, purporting to seek review of a trial court judgment entered on the same date. Taylor, however, has failed to include a copy of any order of the trial court.

Under OCGA § 5-6-35 (c), an applicant for discretionary appeal "*shall* include as exhibits to the petition a copy of the order or judgment being appealed and should include a copy of the petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion." (Emphasis supplied.) See also Court of Appeals Rule 31 (e) ("Discretionary applications must contained a stamped 'filed' copy of the trial court's order or judgment from which the appeal is sought.").

Without the trial court's order, we have nothing to review. This application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 01, 2013

The Court of Appeals hereby passes the following order:

A13D0418. CHARMAINE AHMED v. DEUTSCHE BANK NATIONAL TRUST COMPANY.

Deutsche Bank National Trust Company obtained a dispossessory judgment against Charmaine Ahmed in magistrate court. Ahmed appealed to the state court. The state court entered a writ of possession in the Bank's favor due to Ahmed's failure to pay rent into the registry of the court pending resolution of the appeal. Ahmed then filed a "Notice of Appeal" and "Notice of Intent to Appeal, Application for Discretionary Appeal" in the state court. The state court dismissed those pleadings on the ground that Ahmed was not entitled to a direct appeal. From that dismissal order, Ahmed filed this application for discretionary appeal. We, however, lack jurisdiction.

As the state court made clear in its dismissal order, Ahmed's appeal remains pending below, and no final judgment has been entered. Therefore, in order to obtain review of the writ of possession, Ahmed was required to file an application for interlocutory appeal as provided in OCGA § 5-6-34 (b). See *Rivera v. Housing Authority of Fulton County*, 163 Ga. App. 648 (295 SE2d 336) (1982). The trial court properly dismissed Ahmed's attempts to file a direct appeal from the writ of possession. And "a trial court's order dismissing an improperly filed direct appeal" is also an interlocutory order that may be appealed only by compliance with the interlocutory appeal procedure. *American Medical Security Group v. Parker*, 284 Ga. 102, 103 (2) (663 SE2d 697) (2008). Thus, to appeal the dismissal order, Ahmed had to follow the protocol of OCGA § 5-6-34 (b). Ahmed did not do this; instead, she filed this application for discretionary appeal. But OCGA § 5-6-35, the discretionary

appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996).

Ahmed's failure to comply with the interlocutory appeal procedure deprives us of jurisdiction over this application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/01/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 02, 2013

The Court of Appeals hereby passes the following order

A13D0419. ANN HERRERA, ADMINISTRATOR FOR THE DECEASED KARLA LEAVENWORTH v. ROBERT W. LEAVENWORTH.

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

LC NUMBERS:

2007CV140100

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 02, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 08, 2013

The Court of Appeals hereby passes the following order:

A13D0420. SABRINA D. STRATTON v. THE STATE.

Sabrina Stratton has filed an application for discretionary appeal from the trial court's order dismissing her request for a sentence modification. According to her application, Stratton pled guilty in 2011 and was sentenced to ten years, with three years to serve and seven years on probation. In April 2013, she asked the trial court to reduce her sentence to two years to serve and eight years on probation. She asserts that this reduction is appropriate because (a) it would allow her to spread her restitution payments over an extra year, and (b) she has maintained good behavior while incarcerated. The trial court dismissed Stratton's motion,[1] and she filed this application. We, however, lack jurisdiction.

Under OCGA § 17-10-1 (f), a court may modify a sentence during the year after its imposition or within 120 days after remittitur following a direct appeal, whichever is later. See *Frazier v. State*, 302 Ga. App. 346, 347-348 (691 SE2d 247) (2010); *Burg v. State*, 297 Ga. App. 118, 118 (676 SE2d 465) (2009). Once this statutory period expires, as it had here when Stratton filed her motion, a trial court may modify a sentence only if it is void. *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004). "A sentence is void if the court imposes punishment that the law does not allow." (Punctuation omitted.) Id. Therefore, in order to support a motion for

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[1] The trial court's order is dated May 28, 2012. This appears to be a typo; Stratton asserts that she filed her motion on April 30, 2013, and that the court issued its order on May 28, 2013. If the 2012 date is correct, then Stratton's application, filed on June 7, 2013, would be untimely. See OCGA § 5-6-35 (d).

sentence modification filed outside the statutory time period of OCGA § 17-10-1 (f), a defendant must demonstrate that the sentence imposes punishment not allowed by law. *Frazier*, supra. Where the defendant fails to do so, we lack jurisdiction to review the trial court's denial of his motion. Id.

Here, Stratton does not argue that the sentence is greater than the statutory limit. Accordingly, she has not raised a valid void-sentence claim, and we lack jurisdiction to review the trial court's order. See *Frazier*, supra. This application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/08/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. B. Sosniak, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order:

A13D0421. JAMES THOMAS PEEBLES v. THE STATE.

James Thomas Peebles was convicted of several crimes, including murder.[1] He has filed several pro se motions, including a motion for writ of mandamus. The trial court denied the motions, and Peebles filed an application for discretionary appeal to this Court.

The Supreme Court has exclusive appellate jurisdiction over all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) ("'[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.'"). Furthermore, the Supreme Court has appellate jurisdiction over cases involving murder. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8); *Neal v. State*, 290 Ga. 563, 572 (722 SE2d 765) (2012) (Hunstein, C. J., concurring); see also *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984) (directing this Court to transfer "all cases in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder"). For these reasons, Peebles's application for discretionary appeal is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , Clerk.

[1] Peebles's conviction was affirmed on appeal. See *Peebles v. State*, 260 Ga. 430 (396 SE2d 229) (1990).

Court of Appeals
of the State of Georgia

ATLANTA, June 26, 2013

The Court of Appeals hereby passes the following order:

A13D0422. ANDREA MAST KESSEL v. GREGORY PAUL KESSEL.

The trial court entered a final judgment and decree of divorce, dissolving the marriage of Andrea Kessell and Gregory Kessel on May 7, 2013. Andrea Kessell filed this application for discretionary appeal, seeking to appeal the alimony, child support and custody, as well as the visitation provisions in the decree. We lack jurisdiction.

The Supreme Court has appellate jurisdiction over "[a]ll divorce and alimony cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); see *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court of Georgia for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 10, 2013

The Court of Appeals hereby passes the following order

A13D0423. GEORGIA RIVER NETWORK et al. v. JUDSON H. TURNER, DIRECTOR OF THE GEORGIA ENVIRONMENTAL PROTECTION DIVISION.

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.

LC NUMBERS:

2013CV227212

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 10, 2013.

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

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

Kelly K. O. Loarca , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 10, 2013

The Court of Appeals hereby passes the following order

A13D0424. GEORGIA RIVER NETWORK et al. v. GRADY 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.

LC NUMBERS:

13V036

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 10, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 11, 2013

The Court of Appeals hereby passes the following order

A13D0425. IN THE INTEREST OF: B. E. D., AND A. E. D., CHILDREN (MOTHER) .

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

LC NUMBERS:

03912J143 03912J144

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 11, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 15, 2013

The Court of Appeals hereby passes the following order:

A13D0426. CITY OF FORSYTH v. MONROE COUNTY.

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

LC NUMBERS:
2012CV997

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 15, 2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

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COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S14C0058 Atlanta, November 06, 2013

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CITY OF FORSYTH v. MONROE COUNTY

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 petition be hereby allowed withdrawn.

All the Justices concur.

Court of Appeals Case No.
A13D0426

Costs paid: $300.00

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta November 21, 2013

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.

Lisa C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, July 12, 2013

The Court of Appeals hereby passes the following order

A13D0427. VALERIE LINLEY et al. v. ANDREW S. JENKINS 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.

LC NUMBERS:

11SC1395

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 12, 2013.

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

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

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 12, 2013

The Court of Appeals hereby passes the following order:

A13D0428. MARJORIE UNDERWOOD TALEVSKI v. COURTNEY RENEE YOUNG et al.

Following a jury trial, Marjorie Underwood Talevski won a judgment against Courtney Renee Young and others in this tort action. Tavelski contends that the judgment has not been fully satisfied. She initiated post-judgment discovery, which the defendants attempted to stop. The trial court entered various orders, including a protective order, an entry of satisfaction of judgment, and a "final order." From those orders, Talevski filed a notice of appeal as well as this application for discretionary appeal.

Although post-judgment discovery orders must be appealed by the interlocutory appeal procedure when they are non-final, see *Cornelius v. Finley*, 204 Ga. App. 299 (418 SE2d 815) (1992), the orders at issue here appear to be final within the meaning of OCGA § 5-6-34 (a) (1). Moreover, no provision of OCGA § 5-6-35 (a) appears to apply.[1] Ordinarily, we will grant a timely application when the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). In this case, however, Talevski has already filed a notice of appeal. Accordingly, this application is superfluous, and it is therefore DISMISSED.

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[1] One of the orders that Talevski seeks to appeal, the denial of a motion to set aside, appears to fall within OCGA § 5-6-35 (a) (8). But that order is directly appealable here in conjunction with Talevski's appeal of the other final orders that are not subject to the discretionary appeal procedure. See OCGA § 5-6-34 (d); *Bocker v. Crisp*, 313 Ga. App. 585, 588 n. 9 (722 SE2d 186) (2012).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/12/2013

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

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

Kelly K. O. Lamar, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order:

A13D0429. MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN 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. Rufus's "Emergency Motion for Supersedas" is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 06/28/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loarca, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, June 28, 2013

The Court of Appeals hereby passes the following order

A13D0430. JAMES FUSSELL v. THE STATE.

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

LC NUMBERS:

130019

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, June 28, 2013.

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

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

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, October 21, 2013

The Court of Appeals hereby passes the following order:

A13D0431. JAMES E. THOMPSON v. THE STATE.

Upon consideration of the APPLICATION FOR EXTRAORDINARY MOTION FOR EXTRAORDINARY RELIEF in the above styled case, it is ordered that the application/motion is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/21/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 10, 2013

The Court of Appeals hereby passes the following order:

A13D0431. JAMES E. THOMPSON v. THE STATE.

James E. Thompson has sent numerous documents to this Court. In his most recent correspondence, he appears to be seeking review of the trial court's April 18, 2013, order denying his motion for recusal. We lack jurisdiction to review this order.

First, because the trial court's order was interlocutory, Thompson was required to comply with the interlocutory appeal requirements of OCGA § 5-6-34 (b). Therefore, he was required to secure a certificate of immediate review from the trial court. See *Ellis v. Stanford*, 256 Ga. App. 294, 295 (2) (568 SE2d 157) (2002). He has not done so, and his failure to comply with this requirement deprives us of jurisdiction to review this order.

Second, Thompson has not complied with the requirements for filing an application. Pursuant to Court of Appeals Rule 6, all documents filed in this Court must have been furnished to opposing counsel, and "[a]ny document without a certificate of service shall not be accepted for filing." Thompson's certificate of service indicates that his application was served on this Court. This is not sufficient – the application must be served on the opposing party, which, in this case, is the District Attorney.[1]

Third, Thompson's application is untimely. Applications for interlocutory

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[1] The Clerk of this Court has repeatedly advised Thompson of this deficiency, but he has continued to supply certificates which do not reflect service on opposing counsel. His filing was docketed as an application in order to allow us to address this deficiency in a formal order.

appeal must be filed within 10 days of the trial court's entry of a certificate of immediate review. See OCGA § 5-6-34 (b). Applications for discretionary appeal must be filed within 30 days of entry of the trial court's order. See OCGA § 5-6-35 (d). Thompson's filing was docketed as an application on June 10, 2013 – 53 days after the trial court entered its order. Accordingly, it is untimely. Moreover, for the reasons discussed above, his filing cannot give rise to a valid application.

Under these circumstances, we lack jurisdiction to review the trial court's April 18, 2013, order. Thompson's application is hereby DISMISSED.

We note that, in various correspondence, Thompson asserts that he has not received timely notice of the trial court's orders. If so, his remedy is to petition the trial court to vacate and re-enter the order as a means of correcting the problem. See id.; *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). The re-entry of the order will begin anew the time for seeking appellate review. See *Cambron*, supra.

Finally, we note that this Court is empowered to impose sanctions upon a party who files frivolous applications or notices of appeal. See Court of Appeals Rule 15 (b). We thus caution Thompson against filing future pleadings in this Court that have no substantial basis in law. Such filings may result in the imposition of sanctions.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/10/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. B. Loomis, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 15, 2013

The Court of Appeals hereby passes the following order

A13D0432. DAVID COHEN et al. v. JOSEPH ROGERS, JR..

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

LC NUMBERS:

12EV015804

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 15, 2013.

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

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

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 18, 2013

The Court of Appeals hereby passes the following order

A13D0433. DEBORAH D. THOMAS v. MARK BUTLER, COMMISSIONER OF LABOR et al..

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

LC NUMBERS:

1313484

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 18, 2013.

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

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

Kelly K. O. Spence , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 10, 2013

The Court of Appeals hereby passes the following order:

A13D0434. SHARON MAHDI v. GREEN TREE SERVICING, LLC et al.

Sharon Mahdi filed this application for discretionary appeal from the trial court's order granting summary judgment to three of the defendants in this wrongful foreclosure action. Orders granting summary judgment may be appealed directly; no application is necessary. See OCGA § 9-11-56 (h); *Whiddon v. Stargell*, 192 Ga. App. 826, 828 (386 SE2d 884) (1989).[1] If a party applies for discretionary review of a directly appealable order, we will grant the application under OCGA § 5-6-35 (j). Thus, this application for discretionary appeal is hereby GRANTED. Mahdi shall have ten days from the date of this order to file a notice of appeal, if she has not already done so. 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, 07/10/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

[1] Based on the sparse application materials, no provision of OCGA § 5-6-35 appears to apply here.

Court of Appeals
of the State of Georgia

ATLANTA, July 15, 2013

The Court of Appeals hereby passes the following order

A13D0435. MYE BROOKE BRINDLE v. JOSEPH ROGERS, JR..

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

LC NUMBERS:

12EV015804

COURT OF APPEALS OF THE STATE OF GEORGIA 1906

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 15, 2013.

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

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

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 18, 2013

The Court of Appeals hereby passes the following order

A13D0436. BACKYARD CREATIONS OF NORTH GEORGIA, INC. v. UNIVERSAL EXPRESS, INC..

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

LC NUMBERS:

11CV58853

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 18, 2013.

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

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

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 17, 2013

The Court of Appeals hereby passes the following order

A13D0437. IN THE INTEREST OF: J. S. AND M. S., CHILDREN (MOTHER) .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

12JV1010 12JV1011

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 17, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S14C0142 Atlanta, January 21, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DANIEL A. SPOTTSVILLE v. THE STATE

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0438

Costs paid: Indigent

2014 FEB 14 PM 1:02

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta February 10, 2014

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.

Sui C. Sutton, Chief Deputy Clerk

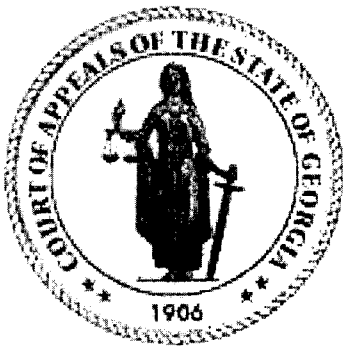
Court of Appeals
of the State of Georgia

ATLANTA, September 05, 2013

The Court of Appeals hereby passes the following order

A13D0438. DANIEL A. SPOTTSVILLE v. THE STATE.

Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 05, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 17, 2013

The Court of Appeals hereby passes the following order

A13D0438. DANIEL A. SPOTTSVILLE v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

SU09CR033

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 17, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 12, 2013

The Court of Appeals hereby passes the following order:

A13D0439. IN THE INTEREST OF: D. B., D. B., D. B., AND D. B., CHILDREN (MOTHER).

On July 12, 2012, the trial court terminated the mother's parental rights to her minor children. The mother filed a motion for new trial, which the trial court denied on May 22, 2013. The mother filed this application for discretionary appeal on June 24, 2013. We lack jurisdiction.

To be timely, a discretionary application must be filed within 30 days of entry of the order at issue. OCGA § 5-6- 35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, the mother filed her application 33 days after the juvenile court denied her motion. We lack jurisdiction to consider an untimely application for discretionary appeal. See *Hill*, supra. Accordingly, this untimely application for appeal is *DISMISSED* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/12/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 17, 2013

The Court of Appeals hereby passes the following order

A13D0440. MILTON GLENN THOMAS v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2010F003

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 17, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loarca , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 18, 2013

The Court of Appeals hereby passes the following order

A13D0441. SANDRA ANNE GRESHAM v. LEONARD BROWN.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13D60

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 18, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 24, 2013

The Court of Appeals hereby passes the following order

A13D0442. IN THE INTEREST OF: D. Q. A., A CHILD (MOTHER) .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

00713J0057 00711J0606

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 24, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 16, 2013

The Court of Appeals hereby passes the following order:

A13D0443. JOHN DAVID RAMSEY v. JASON MEDLIN et al.

John David Ramsey filed an application for discretionary appeal purporting to appeal the trial court's ruling in this habeas corpus action. Under our Constitution, however, the Supreme Court has appellate jurisdiction over all cases involving habeas corpus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (4). Accordingly, Ramsey's application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 23, 2013

The Court of Appeals hereby passes the following order

A13D0444. IN THE INTEREST OF: G. Q. AND Y. Q., CHILDREN (FATHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1200074 1200773

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 23, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Ipanova , *Clerk.*

,f Appeals
State of Georgia

ATLANTA, July 18, 2013

,'he Court of Appeals hereby passes the following order:

A13D0445. KERRY OVERTON et al. v. DAVID JACKSON.

On June 22, 2013, Kerry Overton and Sheilah Lederer filed this discretionary application seeking to appeal a trial court order entered on May 22, 2013. An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "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); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because this application was filed 31 days after entry of the trial court's order, it is untimely, and it is therefore DISMISSED for lack of jurisdiction. Attorney Thomas Drake's "Petition for Courtesy Appearance" is DISMISSED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/18/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 16, 2013

The Court of Appeals hereby passes the following order

A13D0446. LATRESHA SCOTT v. MARK BUTLER, COMMISSIONER, GEORGIA DEPARTMENT OF LABOR 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.

LC NUMBERS:

2013CV226671

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 16, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 16, 2013

The Court of Appeals hereby passes the following order:

A13D0447. SHIRLEY WEISS v. ALLY FINANCIAL, INC. f/k/a GMAC INC. A/K/A ALLY BANK, et al.

Shirley Weiss filed an action against Ally Financial, Inc., challenging the repossession of her car. On May 8, 2013, the trial court dismissed the complaint for failure to state a claim upon which relief can be granted. On June 25, 2013, Weiss filed this application for discretionary appeal. We lack jurisdiction.

The trial court's order appears to have been a directly appealable final judgment. Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v State*, 204 Ga App 582 (420 SE2d 393) (1992). Here, Weiss filed her application 48 days after the trial court's order was entered. Accordingly, her application is untimely and must be DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/16/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomer , Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 19, 2013

The Court of Appeals hereby passes the following order:

A13D0448. MARLANDO DERRICK RHODES v. THE STATE.

Marlando Derrick Rhodes filed an application for discretionary review seeking to appeal the trial court's order revoking his probation. Rhodes included a copy of the order, but it was not a stamped "filed" copy as required by Court of Appeals Rule 31 (e).

Without the stamped "filed" copy of the order, we cannot ascertain if the application was filed within 30 days, which is a jurisdictional requirement.[1] See OCGA § 5-6-35 (d); *Boyle v. State of Ga.*, 190 Ga. App. 734 (380 SE2d 57) (1989). Accordingly, on July 1, 2013, we ordered Rhodes to supplement his application within ten days with a stamped "filed" copy of the order to be appealed. We provided that failure to comply with this directive would result in dismissal of the application. Rhodes has not submitted a stamped "filed" copy of the order, and more than ten days have passed since the July 1, 2013 order. Accordingly, Rhodes's application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/19/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

[1] Although the order did not contain a stamped "filed" date, the order was signed by the judge on April 23, 2013. Unless the entry of the order was delayed by more than a month, the June 25, 2013 application for discretionary appeal would be untimely.

Court of Appeals of the State of Georgia

ATLANTA, July 17, 2013

The Court of Appeals hereby passes the following order:

A13D0449. ALYSSA KAY BROWN v. THE STATE.

In February of 2010, Alyssa Kay Brown was charged with criminal damage to property in the second degree, loitering and prowling, and possession of tools for the commission of a crime. Brown was found incompetent to stand trial, and on July 30, 2012, the trial court entered an order civilly committing Brown to the custody of the Department of Human Resources for treatment, pursuant to OCGA § 17-7-130. Brown filed her application for discretionary review of the civil commitment order on June 28, 2013. We lack jurisdiction.

The trial court's order appears to have been a directly appealable order. Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v State*, 204 Ga App 582 (420 SE2d 393) (1992). Here, Brown filed her application 333 days after the trial court's order was entered. Accordingly, her application is untimely and must be DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/17/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, July 29, 2013

The Court of Appeals hereby passes the following order

A13D0450. JAMES MICHAEL APPIE v. GINNY REED-APPIE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

10CV5686

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 29, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 18, 2013

The Court of Appeals hereby passes the following order

A13D0451. DEVON MORRISON v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

08CR0774

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 18, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1815 Atlanta, January 06, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BOBBY RANDALL ESCO v. THE STATE

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0453

Costs paid: $80.00

RECEIVED IN OFFICE
2014 JUN 23 PM 3:42
SUPREME COURT ADMINISTRATION
COURT OF APPEALS OF GA

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta January 22, 2014

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.

Lisa C. Hutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, July 30, 2013

The Court of Appeals hereby passes the following order

A13D0453. BOBBY RANDALL ESCO v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

89CR80

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 30, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order:

A13D0454. RODNEY WAYNE LITTLE v. RAE COLLIER MERRITT f/k/a RAMONA COLLIER LITTLE.

Rae Collier Merritt filed this petition for contempt action against her ex-husband, Rodney Little, alleging that he violated the court's order modifying the custody and child support provisions of their divorce decree. The trial court granted Merritt's petition and ordered Little to pay the amount that he owed within 90 days. Little filed this application for discretionary appeal.

Because Merritt's contempt action was based on an alleged violation of a modification of the parties' divorce decree, appellate jurisdiction lies in the Supreme Court. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6) (Supreme Court has jurisdiction over "[a]ll divorce and alimony cases"); see *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court of Georgia for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/31/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 23, 2013

The Court of Appeals hereby passes the following order:

A13D0455. KEVIN J. BRIGGS, SR. v. TERINEE L. GUNDY.

Kevin J. Briggs, Sr. seeks to appeal the trial court's order finding him in contempt of multiple provisions of a final divorce decree. Jurisdiction lies in the Supreme Court, which has appellate jurisdiction over "[a]ll divorce and alimony cases." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); see *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004); see also *Morris v. Morris*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). Accordingly, this application is hereby TRANSFERRED to the Supreme Court of Georgia for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 23, 2013

The Court of Appeals hereby passes the following order:

A13D0456. JAMES M. MARTIN v. SHEVONDAH FIELDS, MANAGER, GEORGIA DEPARTMENT OF CORRECTIONS INMATE AFFAIRS AND APPEALS.

On August 29, 2011, this Court issued an order granting James M. Martin's application for discretionary appeal in Case Number A11D0511. The order notified Martin that he had 10 days from the date of the order to file a notice of appeal. See OCGA § 5-6-35 (g). Martin, however, did not file his notice of appeal until 24 days later on September 22, 2011. Because the timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court, we dismissed his appeal as untimely in Case Number A12A0285. See *White v. White*, 188 Ga. App. 556 (373 SE2d 824) (1988). Martin then filed a motion for a Writ of Mandamus with the trial court, attempting to compel the trial court to review its prior decision. The trial court denied Martin's motion on May 22, 2013, and Martin filed this application for discretionary appeal on June 25, 2013. We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d). "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); see also *Gable v. State*, 290 Ga. 81, 82-83 (2) (a) (720 SE2d 170) (2011). Because Martin's application was filed outside the 30-day period, it is untimely, and it is accordingly DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/23/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1820 Atlanta, January 06, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DANIEL ERIC COBBLE v. KAREN DARLENE CASTLEBERRY

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0457

Costs paid: Indigent

2014 JAN 31 PM 3:39

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta January 28, 2014

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.

Sui C. Sutton , Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, July 29, 2013

The Court of Appeals hereby passes the following order

A13D0457. DANIEL ERIC COBBLE v. KAREN DARLENE CASTLEBERRY.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

1310009

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 29, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

2013 JUL 31 PM 3:39

Court of Appeals
of the State of Georgia

ATLANTA, July 25, 2013

The Court of Appeals hereby passes the following order:

A13D0458. SAID MOBIN v. SOHAILA MOBIN.

Said Mobin filed this application for discretionary appeal from the trial court's June 6, 2013 order appointing a receiver to protect assets awarded in a divorce decree. However, the Georgia Supreme Court has jurisdiction over all divorce and alimony cases, including those cases ancillary to the divorce proceedings. See Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6). Because the order that Mobin seeks to appeal is ancillary to the divorce action, the Supreme Court has jurisdiction over this application. See, e. g., *Morris v. Surges*, 284 Ga. 748, 750 (2) (670 SE2d 84) (2008). This application is therefore TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/25/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loumar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order:

A13D0459. JAMES E. THOMPSON v. THE STATE.

In his most recent application, James Thompson seeks appellate review of the trial court's June 10, 2013 order denying his motion to compel and extraordinary motion for new trial.

The application is timely as to the June 10 order, but it does not address that order at all. Instead, Thompson complains that the clerk of the superior court is not providing him with timely notice of the court's rulings. Accordingly, he has not met his burden of establishing that discretionary review is warranted. This application is hereby DENIED. See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/31/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 26, 2013

The Court of Appeals hereby passes the following order:

A13D0460. DAVID S. DELUGAS v. JESSICA M. DELUGAS.

It appearing the order of this Court which issued July 24, 2013, is incorrect due to a clerical error, it is hereby ordered that the order attached hereto be substituted.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 24, 2013

The Court of Appeals hereby passes the following order:

A13D0460. DAVID S. DELUGAS v. JESSICA M. DELUGAS.

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. Appellants motion to supplement the record is hereby DENIED.

LC NUMBERS:
0919859

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 24, 2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order

A13D0461. ANTHONY FLOWERS v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2008CR00254

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 31, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 11, 2013

The Court of Appeals hereby passes the following order:

A13D0462. NADINE MARIE JACKSON RONE v. ANTHONY LEON RONE.

Nadine Jackson-Rone filed this discretionary application seeking to appeal the superior court's final decree of divorce. The Supreme Court, however, has general appellate jurisdiction over divorce and alimony cases. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Accordingly, this application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/11/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 26, 2013

The Court of Appeals hereby passes the following order

A13D0463. RZI PROPERTIES v. SUNTRUST MORTGAGE, INC., et al..

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

13A00117

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 26, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Ipanova , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 24, 2013

The Court of Appeals hereby passes the following order:

A13D0464. KIMBERLY Y. CHATMAN v. DAVID EUGENE PALMER, JR.

Kimberly Y. Chatman and David Eugene Palmer, Jr., are parents of a son to whom Chatman was given primary physical custody. Palmer sought modification of custody, and by order dated December 11, 2012, the trial court changed the primary physical custodian to Palmer. In the order, the trial court reserved the issue of attorney fees. On June 7, 2013, the trial court entered an order finding attorney fees under OCGA §§ 19-9-3 (g) and 19-6-2 to be inappropriate. But the trial court ordered Chatman to pay over $42,000 in OCGA § 9-15-14 attorney fees. Chatman filed this application for discretionary appeal, seeking to challenge both the custody ruling as well as the assessed attorney fees.

Pursuant to OCGA § 5-6-34 (a) (11), a direct appeal is authorized from "[a]ll judgments in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders." Because the order at issue here modified child custody, it was directly appealable.[1]

We will grant a timely-filed discretionary application if the lower court's order

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[1] Although the order was entered in December 2012, it was not final because the trial court reserved the issue of attorney fees. See *CitiFinancial Services, Inc. v. Holland*, 310 Ga. App. 480, 481 (713 SE2d 678) (2011); compare *Hill v. Buttram*, 255 Ga. App. 123, 124 (564 SE2d 531) (2002) (reservation of OCGA § 9-15-14 attorney fee issue does not extend time for filing notice of appeal). The trial court ultimately assessed fees under OCGA § 9-15-14, but Palmer sought attorney fees on additional bases.

is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Chatman shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/24/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spence, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order

A13D0465. DANIEL ERIC COBBLE v. JO HUNDING.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13CV46379

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 31, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 18, 2013

The Court of Appeals hereby passes the following order

A13D0467. RANDY SHIELDS v. THE STATE .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

SU00CR1403

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 18, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, July 23, 2013

The Court of Appeals hereby passes the following order:

A13D0468. DONALD LEE UBELE v. STATE OF GEORGIA, et al.

Donald Ubele filed this application for discretionary appeal on July 1, 2013. He appears to be seeking review of the trial court's September 25, 2012, order denying him permission to file a civil action.[1] See OCGA § 9-15-2 (d). His application, however, is untimely as to that order.

An application for discretionary appeal must be filed within 30 days of entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Ubele filed his application 279 days after the trial court's order was entered. Because his application is untimely, we lack jurisdiction to consider it, and it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/23/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

[1] Ubele also filed a direct appeal from the same order. See Case No. A13A1343. On March 21, 2013, we dismissed that appeal because Ubele was required to follow the discretionary appeal process to obtain review of the order.

Court of Appeals of the State of Georgia

ATLANTA, July 25, 2013

The Court of Appeals hereby passes the following order:

A13D0469. WILLIAM TERRENCE MURRAY v. THE STATE.

William Terrence Murray filed this application for discretionary appeal seeking review of a municipal court order transferring a criminal matter to the state court. Such a transfer order is not a final order. See *Wright v. Millines*, 212 Ga. App. 453 (442 SE2d 304) (1994); *Griffith v. Georgia Bd. of Dentistry*, 175 Ga. App. 533 (333 SE2d 647) (1985). Accordingly, Murray was required to comply with the interlocutory application procedures set forth in OCGA § 5-6-34 (b), which include obtaining a certificate of immediate review from the trial court. See id. Murray's failure to comply with the interlocutory appeal procedures deprives us of jurisdiction over this application, which is hereby DISMISSED

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/25/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 08, 2013

The Court of Appeals hereby passes the following order

A13D0470. IN THE INTEREST OF: A. A. H. A/K/A A. A. B., A CHILD (FATHER) .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13JV49

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 08, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order

A13D0471. ANDREA BANDERAS v. WRI CAPITAL GROUP A/K/A COLFIN AT-GA I, LLC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13A47151

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 31, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow , *Clerk.*

REMITTITUR

RECEIVED IN OFFICE
2014 MAY 21 PM 3:27
SUPREME COURT GEORGIA
COURT OF APPEALS OF GA

SUPREME COURT OF GEORGIA

Case No. S14C0183 Atlanta, April 22, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WEAVER CONSTRUCTION & AUTO OWNERS INSURANCE CO. v. MARK THOMPSON

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 petition be hereby denied.

All the Justices concur.

Associated Cases
A13D0472

Costs paid: $300.00

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta May 19, 2014

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.

Lui C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, August 08, 2013

The Court of Appeals hereby passes the following order

A13D0472. WEAVER CONSTRUCTION & AUTO OWNERS INSURANCE CO., v. MARK THOMPSON.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2013CV255

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 08, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loanoa , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 08, 2013

The Court of Appeals hereby passes the following order

A13D0473. SHAWN VOLK v. ESSENTIA INSURANCE COMPANY et al..

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

11VS189793

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 08, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

RECEIVED IN OFFICE
2013 OCT 22 PM 3:12
CLERK'S COURT OF APPEALS OF GA

ATLANTA, July 30, 2013

The Court of Appeals hereby passes the following order:

A13D0474. DEEDRA MEADOWS FULLER v. RODNEY DARRELL FULLER.

Deedra Meadows Fuller filed for divorce from Rodney Darrell Fuller. Rodney filed a motion to enforce an antenuptial agreement, which the trial court granted on June 25, 2013. Deedra filed an application for discretionary appeal from this ruling.

From the materials presented, it appears the divorce matter remains pending in the trial court. Because the case is pending below, Deedra was required to follow the interlocutory appeal procedures of OCGA § 5-6-34 (b).[1] *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). Her failure to comply with the interlocutory appeals procedures and obtain a signed certificate of immediate review deprives this Court of jurisdiction. Accordingly, Rodney's motion to dismiss is hereby GRANTED, and this application is DISMISSED.

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[1] Although Deedra included a certificate of immediate review with her application, the certificate was not signed by the judge.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/30/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lanoue, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 01, 2013

The Court of Appeals hereby passes the following order

A13D0475. IN THE INTEREST OF: M. M. M. T., A CHILD (MOTHER). .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1300375

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 01, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 01, 2013

The Court of Appeals hereby passes the following order

A13D0476. ERIC S. FED v. MARK BUTLER, COMMISSIONER GEORGIA DEPARTMENT OF LABOR, 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.

LC NUMBERS:

2013CV229936

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 01, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spence , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 08, 2013

The Court of Appeals hereby passes the following order

A13D0477. WILLIE FRANK WRIGHT, JR. v. HULANE E. GEORGE et al..

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

12CV46361

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 08, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

RECEIVED IN OFFICE
2014 JAN 23 PM 3:45
CLERK, COURT OF APPEALS OF GA

REMITTITUR

SUPREME COURT OF GEORGIA

Case No. S13C1879 Atlanta, January 06, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILLIE FRANK WRIGHT, JR. v. HULANE E. GEORGE et al.

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 petition be hereby denied.

All the Justices concur.

Court of Appeals Case No.
A13D0477

Costs paid: Indigent

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta January 22, 2014

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.

Lui C. Britton, Chief Deputy Clerk

Court of Appeals
of the State of Georgia

ATLANTA, August 08, 2013

The Court of Appeals hereby passes the following order

A13D0478. RHONDA MCRARY v. FEDERAL NATIONAL MORTGAGE ASSOCIATION.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2013CV00544

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 08, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order:

A13D0479. SETH ANSELL v. ANNA A. ANSELL.

Seth Ansell filed this application for discretionary appeal from the trial court's order that, inter alia, modified visitation. Pursuant to OCGA § 5-6-34 (a) (11), however, a direct appeal is authorized from "[a]ll judgments in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders."

Here, the trial court's order is a custody order as it changes visitation, and "[u]nder Georgia law, visitation rights are a part of custody." *Vines v. Vines*, 292 Ga. 550, 551 (2) (739 SE2d 374) (2013). Although Ansell is not seeking to challenge the trial court's visitation ruling, he nonetheless has a right of direct appeal from the custody order. See *Collins v. Davis*, 318 Ga. App. 265, 268-269 (1) (733 SE2d 798) (2012).

We will grant a timely-filed discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Ansell shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/31/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. B. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, July 31, 2013

The Court of Appeals hereby passes the following order:

A13D0479. SETH ANSELL v. ANNA A. ANSELL.

Seth Ansell filed this application for discretionary appeal from the trial court's order that, inter alia, modified visitation. Pursuant to OCGA § 5-6-34 (a) (11), however, a direct appeal is authorized from "[a]ll judgments in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders."

Here, the trial court's order is a custody order as it changes visitation, and "[u]nder Georgia law, visitation rights are a part of custody." *Vines v. Vines*, 292 Ga. 550, 551 (2) (739 SE2d 374) (2013). Although Ansell is not seeking to challenge the trial court's visitation ruling, he nonetheless has a right of direct appeal from the custody order. See *Collins v. Davis*, 318 Ga. App. 265, 268-269 (1) (733 SE2d 798) (2012).

We will grant a timely-filed discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Ansell shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/31/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 12, 2013

The Court of Appeals hereby passes the following order:

A13D0480. ANDREA BANDERAS v. WRI CAPITAL GROUP.

Andrea Banderas appealed to the state court from a final judgment entered in magistrate court in this dispossessory action. The state court dismissed her appeal. Banderas then filed two applications for discretionary appeal in this Court, both of which sought review of the same state court dismissal order. We denied Banderas's first application, A13D0471, by order entered July 31, 2013.[1] That denial was an adjudication on the merits, and the doctrine of res judicata bars this second application seeking to appeal the same order. See *Northwest Social & Civic Club v. Franklin*, 276 Ga. 859, 860 (583 SE2d 858) (2003); *Hook v. Bergen*, 286 Ga. App. 258, 261 (1) (649 SE2d 313) (2007). This application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/12/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

[1] Although Banderas styled A13D0471 as an application for interlocutory appeal, she did not include a certificate of immediate review. Accordingly, we docketed it as a discretionary application. In any event, an interlocutory application is not necessary to appeal a final order.

Court of Appeals
of the State of Georgia

ATLANTA, August 09, 2013

The Court of Appeals hereby passes the following order

A13D0481. MASON MERCURE v. CITY OF ATLANTA, 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.

LC NUMBERS:

2013CV225525

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 09, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 14, 2013

The Court of Appeals hereby passes the following order

A13D0482. JEFF RADER, IN HIS OFFICIAL CAPACITY AS COMMISSIONER FOR 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 DENIED.

LC NUMBERS:

13CV3625

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 14, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 12, 2013

The Court of Appeals hereby passes the following order

A13D0483. RADIO SANDY SPRINGS, INC., v. ALLEN ROAD JOINT VENTURE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

08DD003157

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 12, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow *, Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 09, 2013

The Court of Appeals hereby passes the following order:

A13D0484. DANIEL ERIC COBBLE v. THE STATE.

Upon consideration of this Application for Discretionary Appeal, we have determined that the application should be granted. Ordinarily, we would advise applicant Daniel Cobble that he may file a notice of appeal within 10 days of this order.

However, Cobble has already filed a direct appeal from the same trial court order. That appeal has been docketed as case number A13A2347. Under these circumstances, it is unnecessary for Cobble to file a second notice of appeal. To avoid superfluous appeals, our review of the trial court's order will proceed under case number A13A2347.

Cobble's "Motion for this Court to Order Petitioner Paid Pro/Se Attorney Fees" is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/09/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 13, 2013

The Court of Appeals hereby passes the following order

A13D0485. WILLIE MAE SHERIDAN v. MARK BUTLER, COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR et al..

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2013CV230290

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 13, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 02, 2013

The Court of Appeals hereby passes the following order

A13D0486. MICHAEL HUNT 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.

LC NUMBERS:

2010CR1020

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 02, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 12, 2013

The Court of Appeals hereby passes the following order:

A13D0487. DEXTER GERMAINE LEWIS v. THE STATE.

On July 12, 2013, Dexter Germaine Lewis filed this application for discretionary appeal seeking review of an order revoking his probation. The only order included with his application, however, is a show cause order scheduling a hearing for April 9, 2013 on the state's petition to revoke Lewis's probation.

Under OCGA § 5-6-35 (c), an applicant for discretionary appeal "*shall* include as exhibits to the petition a copy of the order or judgment being appealed and should include a copy of the petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion." (Emphasis supplied.) See also Court of Appeals Rule 31 (e) ("Discretionary applications must contained a stamped 'filed' copy of the trial court's order or judgment from which the appeal is sought.").

Without the trial court's revocation order, we have nothing to review. This application is therefore DISMISSED.[1]

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[1]According to Lewis, the revocation order was entered on April 9, 2013. Thus, even if Lewis had included the order, this application would be untimely. An application for discretionary appeal must be filed within 30 days of entry of the order to be appealed. OCGA § 5-6-35 (d); see also *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). This application was filed 94 days after April 9, 2013.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/12/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 07, 2013

The Court of Appeals hereby passes the following order

A13D0488. COMPLETE MECHANICAL, INC., et al. v. CHARLES D. STRICKLAND.

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.

LC NUMBERS:

SUCV0349

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 07, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 14, 2013

The Court of Appeals hereby passes the following order:

A13D0489. JACKIE OWENS v. THE STATE.

Jackie Owens has filed a pro se application for discretionary appeal from the trial court's order denying his motion to withdraw his plea in a revocation action. The trial court's order was entered on May 31, 2013, and Owens filed his application on July 17, 2013.

We lack jurisdiction because Owens's application is untimely. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Owens filed his application 47 days after entry of the order he seeks to appeal. Therefore, his application is untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/14/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 15, 2013

The Court of Appeals hereby passes the following order:

A13D0490. ANASTASIA DESCHAMPS v. MARATHON INVESTMENT TRUST LLC.

Anastasia Deschamps filed a wrongful foreclosure suit, which the trial court apparently dismissed on or about March 22, 2013. Deschamps filed a motion for reconsideration from this ruling, which the trial court denied on May 23, 2013.[1] Deschamps then filed this application for discretionary appeal.[2]

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). The proper and timely filing of the application is an absolute requirement to confer appellate jurisdiction upon this Court. See *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995). Filing a motion for reconsideration does not extend the 30-day time period, and the denial of a motion for reconsideration is not itself an appealable order. See *Ferguson v. Freeman*, 282 Ga. 180, 181 (1) (646 SE2d 65) (2007). Because this application was filed more than 30 days after the dismissal order that Deschamps seeks to challenge, we lack

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[1] In violation of Court of Appeals Rule 31 (b), Deschamps has not included a copy of the motion that led to the order she seeks to appeal. She also failed to include any of the trial court's prior rulings, which she references in her application. See Court of Appeals Rule 31 (c) (applicant required to provide material "sufficient to apprise the Court of the appellate issues, in context, and support the arguments advanced . . .").

[2] Deschamps filed her application in the Supreme Court, which transferred the matter to this Court.

jurisdiction to consider it. The application is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/15/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 09, 2013

The Court of Appeals hereby passes the following order

A13D0491. WILLIS L. METHENY v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

91B1895

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 09, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 09, 2013

The Court of Appeals hereby passes the following order

A13D0492. IN THE INTEREST OF: C. R. B. AND K. L. B., CHILDREN (FATHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1201423 1201503 1201424 1201502

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 09, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 07, 2013

The Court of Appeals hereby passes the following order:

A13D0493. BLAKE F. DOYLE v. ALLISON J. CANNON et al.

Blake Doyle filed this application for discretionary appeal from the trial court's order denying his petition for legitimation and custody of a child. Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases . . . refusing to change . . . child custody" are directly appealable. We have also held that orders in legitimation cases that involve "the establishment of legal custody over [the] child" are directly appealable under this same statute. See *Caldwell v. Meadows*, 312 Ga. App. 70, 77 (4) (717 SE2d 668) (2011).

Here, the trial court ruled that the mother of the child intentionally withheld information about the child's birth from Doyle, intentionally misled Doyle as to the actual paternity of the child, and independently decided to place the child for adoption. Within a month of the child's birth, Doyle filed this petition to legitimate and for custody. The trial court acknowledged that Doyle did not abandon his opportunity interest but decided that granting the petition to legitimate and change custody of the child was not in the child's best interest. This order is directly appealable under OCGA § 5-6-34 (a) (11).

This Court will grant an otherwise timely discretionary application if the lower court's order is directly appealable and the applicant has not already filed a notice of appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Doyle shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/07/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. B. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 14, 2013

The Court of Appeals hereby passes the following order

A13D0494. HUSSAIN KAREEM v. JP MORGAN CHASE & COMPANIES et al..

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2008SUCV4637

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 14, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 16, 2013

The Court of Appeals hereby passes the following order

A13D0495. HAMANT PATEL, et al. v. ROBERT ABNEY FRICKS, et al..

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

12V106207

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 16, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 09, 2013

The Court of Appeals hereby passes the following order

A13D0496. IN THE INTEREST OF: E. K. S., A CHILD .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

1200381

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 09, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spencer , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 16, 2013

The Court of Appeals hereby passes the following order

A13D0497. GEORGIA PROFESSIONAL STANDARDS COMMISSION v. BETTY BROWN.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

CV130002

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 16, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 07, 2013

The Court of Appeals hereby passes the following order:

A13D0498. SHARON BRANTLEY v. THE STATE.

Sharon Brantley has been charged with aggravated assault and aggravated assault on a peace officer. While out on bond, Brantley allegedly failed to complete two scheduled mental health evaluations. The trial court then issued a bench warrant for her arrest. Brantley filed a motion to quash the bench warrant, which the trial court denied. Brantley filed an application for discretionary appeal, seeking review of this order. We, however, lack jurisdiction.

Because the case remains pending for trial, the order that Brantley seeks to appeal is interlocutory. Therefore, Brantley was required to use the interlocutory appeal procedures to appeal the denial of her motion to quash. See *Boyd v. State*, 191 Ga. App. 435 (383 SE2d 906) (1989). Her failure to do so deprives this Court of jurisdiction over this appeal, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/07/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. A. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 13, 2013

The Court of Appeals hereby passes the following order

A13D0499. GLENDA GREENE v. APRIL HALL 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.

LC NUMBERS:

2012CA38530

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 13, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 19, 2013

The Court of Appeals hereby passes the following order:

A13D0500. EARL MARCUS LYONS, et al. v. THE STATE.

On June 11, 2013, the trial court entered an order granting Earl Marcus Lyons a right to out-of-time appeal. The order directed Lyons to file a "notice of appeal *with the Clerk of Superior Court of Henry County.*" On July 18, 2013, Lyons filed an application for discretionary appeal in this Court.

Based upon the trial court's order, Lyons was entitled to a direct appeal. Ordinarily, if a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of entry of the order to be appealed. See OCGA § 5-6-35 (d) & (j); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Because Lyons did not file his application until 37 days after the trial court's order, it is untimely. Accordingly, this application is hereby DISMISSED for lack of jurisdiction.

We note, however, that Lyons contends he did not receive the trial court's order in sufficient time to file an application for discretionary appeal within 30 days. If so, his remedy is to petition the trial court to vacate and re-enter the order as a means of correcting the problem. See id.; *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). The re-entry of the order will begin anew the time for filing a notice of appeal in the trial court. See *Cambron*, supra.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/19/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 20, 2013

The Court of Appeals hereby passes the following order

A13D0501. CATHERINE GIBSON MCCAULEY et al. v. MILLER BUILT HOMES, INC., et al. .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

11CV1646

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 20, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 26, 2013

The Court of Appeals hereby passes the following order:

A13D0502. LEOPOLD ENWONWU v. WELLS FARGO BANK, N. A.

Leopold Enwonwu's property was sold at foreclosure. When Enwonwu failed to vacate the property, buyer Wells Fargo filed a dispossessory action against him in magistrate court. The magistrate court entered a default judgment in favor of Wells Fargo. Enwonwu appealed to the superior court, which entered an order compelling the payment of rent into the registry of the court pending appeal. Later, the superior court dismissed the appeal on the ground that no appeal lies from a default judgment in magistrate court.[1]

Enwonwu filed an application for discretionary appeal in this court, seeking review of both superior court orders. See A13D0186. We dismissed the application as untimely, and we denied Enwonwu's subsequent motion for reconsideration. Enwonwu then sought review in the Supreme Court, which denied his certiorari petition.

Next, Enwonwu filed in the superior court a "Motion to Arrest Execution of the Writ of Possession Issued Pursuant to Order to Compel Payment of Rent Into Court Granted by the Honorable Tom Campbell Judge of the Superior Court of Fulton County In Want of Subject Matter Jurisdiction."[2] The superior court denied that

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[1] See OCGA § 15-10-41 (a) (2).

[2] Enwonwu has included only the first page of this motion, in violation of this Court's requirement that he "include a copy of any petition or motion which led directly to the order or judgment being appealed." Court of Appeals Rule 31 (b); see also OCGA § 5-6-35 (c).

motion and entered another writ of possession in favor of Wells Fargo. Enwonwu then filed this application for discretionary appeal. We, however, lack jurisdiction.

Where the questions presented on appeal have become moot, an appeal is subject to dismissal. See OCGA § 5-6-48 (b) (3). "An appeal becomes moot if the rights insisted upon could not be enforced by a judicial determination." *Randolph County v. Johnson*, 282 Ga. 160 (1) (646 SE2d 261) (2007). The effect of our dismissal of Enwonwu's previous discretionary application was to affirm the judgment of the superior court. See *Aetna Casualty & Surety Co. v. Bullington*, 227 Ga. 485 (2) (181 SE2d 495) (1971). "When a final judgment of the trial court is affirmed by this court . . . the controversy is at an end; the rights of the parties, so far as they are involved in the litigation, are conclusively adjudicated." Id. Accordingly, Enwonwu no longer has any right with respect to the underlying dispossessory action that may be enforced by appellate review of the superior court's order. This application is hereby DISMISSED as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/26/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Loomis, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 09, 2013

The Court of Appeals hereby passes the following order

A13D0503. WALTER MAXON SIMON v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

10B4303

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 09, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 19, 2013

The Court of Appeals hereby passes the following order:

A13D0504. FULTON COUNTY SCHOOL DISTRICT v. JAN S. HERSH.

The Fulton County School District filed an application for discretionary appeal of the superior court's award of attorney fees. We granted its application on August 21, 2013.

However, the District did not receive timely notice of our decision because our notification was sent to an outdated address. In light of this error, we hereby VACATE our prior order granting the application. In addition, we hereby order that the application is REINSTATED and GRANTED. The District shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, it has already filed a notice of appeal, it need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/19/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 20, 2013

The Court of Appeals hereby passes the following order:

A13D0505. GOTTFRIED A. KAPPELMEIER v. JOSEPH C. IANNAZZONE.

On May 6, 2013, the trial court entered an order refusing to docket motions filed by Gottfried Kappelmeier in an action Kappelmeier brought against Household Realty Corporation and several John Doe defendants. According to the trial court's order, the case has been "disposed." On July 26, 2013, Kappelmeier filed this application styled "Gottfried A. Kappelmeier v. Joseph Iannazzone," seeking to challenge this ruling.[1]

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Kappelmeier filed this application 81 days after entry of the order he seeks to appeal. The application is untimely and, accordingly, is hereby DISMISSED for lack of jurisdiction.

We note that Kappelmeier has filed more than 20 actions in this Court, many of which lacked merit and were summarily dismissed. In October 2011, we informed Kappelmeier of this Court's power to impose sanctions upon a party who files frivolous applications or notices of appeal. See Court of Appeals Rule 15 (b). We

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[1] Joseph Iannazzone is the trial judge who entered the order. He is not a party to the proceeding below, but he was apparently the only individual served with a copy of this application. Given Kappelmeier's failure to serve the opposing party as required by Court of Appeals Rule 6, we question whether this application was properly docketed.

cautioned Kappelmeier against filing future frivolous pleadings in this Court, warning him that such motions would subject him to sanctions. Kappelmeier nonetheless filed this frivolous application.[2] Given Kappelmeier's history of frivolous filings, we hereby impose a penalty of $250.00.[3] See Court of Appeals Rule 15 (b).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/20/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. A. Sparrow, *Clerk.*

[2] Because the application was untimely, directed to a non-party, and lacking any cogent argument, we deem it to be frivolous.

[3] Court of Appeals Rule 15 (c) provides that the penalty shall constitute a money judgment in favor of the appellee, as the Court directs. "Upon filing of the remittitur in the trial court, the penalty may be collected as are other money judgments." See id.

Court of Appeals of the State of Georgia

ATLANTA, October 25, 2013

The Court of Appeals hereby passes the following order:

A13D0505. GOTTFRIED A. KAPPELMEIER v. HOUSEHOLD REALTY CORPORATION, et al.

On August 20, 2013, this Court dismissed the application for discretionary appeal filed by Gottfried A. Kappelmeier and fined Kappelmeier for having filed a frivolous application. Kappelmeier filed a motion for reconsideration from this ruling, which this Court denied on October 7, 2013. Kappelmeier has filed two additional pro se motions, including a motion for sanctions and a document titled a "motion to dismiss." In view of the denial of Kappelmeier's motion for reconsideration, the pending motions in this case are hereby DISMISSED as moot.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 10/25/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 26, 2013

The Court of Appeals hereby passes the following order

A13D0506. KIMBERLY WATKINS v. CITY OF LAKE CITY.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

2013CV0525

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 26, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 22, 2013

The Court of Appeals hereby passes the following order:

A13D0507. BLUE CROSS BLUE SHIELD HEALTHCARE PLAN OF GEORGIA, INC. et al. v. MERITAIN, INC.

The City of Augusta awarded a public contract for healthcare services to Blue Cross Blue Shield Healthcare Plan of Georgia, Inc. ("BCBS"). Disappointed bidder Meritain, Inc. filed an unsuccessful administrative appeal, then petitioned the superior court for a writ of certiorari. The superior court reversed the administrative decision and ordered the City to rebid the contract, but the court expressly reserved ruling on Meritain's claim for damages and attorney fees. BCBS then filed this application for discretionary appeal. We, however, lack jurisdiction.

"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, 522 (1) (457 SE2d 835) (1995). An order that reserves ruling on pending claims is not a final judgment. *Sotter v. Stephens*, 291 Ga. 79, 82 (727 SE2d 484) (2012). Because the order appealed from is not a final judgment, BCBS was required to follow the interlocutory application procedures in OCGA § 5-

6-34 (b) by obtaining a certificate of immediate review from the superior court within the requisite time period. See *Miller v. Miller*, 282 Ga. 164 (646 SE2d 469) (2007). BCBS's failure to do so deprives us of jurisdiction over this application, which is hereby DISMISSED. BCBS's motion to file exhibits under seal is DISMISSED as MOOT.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/22/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. D. Sparrow, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 26, 2013

The Court of Appeals hereby passes the following order

A13D0508. IN THE INTEREST OF: A. M., et al., CHILDREN (MOTHER) .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13CV4561 13CV0326

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 26, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 16, 2013

The Court of Appeals hereby passes the following order

A13D0509. GURPARTAP SINGH TOOR v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

06CR00210

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 16, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 22, 2013

The Court of Appeals hereby passes the following order:

A13D0510. JARYN WARE v. THE STATE.

Jaryn Ware was convicted of armed robbery, hijacking a motor vehicle, and two counts of possession of a firearm during the commission of a crime, and his convictions were affirmed on appeal. See *Copeny v. State*, 316 Ga. App. 347 (729 SE2d 487) (2012). Ware subsequently filed a motion to vacate a void sentence, which the trial court denied. Ware filed an application for discretionary appeal from this ruling.

There is no provision of OCGA § 5-6-35 (a) that requires an application for discretionary appeal from a trial court's order denying a motion to vacate an allegedly void sentence. If an applicant applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). Here, however, Ware does not have a right of direct appeal.

An appeal may lie from an order denying a motion to correct a void sentence if the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Harper v. State*,286 Ga. 216 n.1 (686 SE2d 786) (2009); *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). Ware contends that his sentence is void because the trial court failed to merge his two convictions for possession of a firearm during the commission of a crime. This merger argument is a challenge to his convictions, not to his sentence. See *Williams v. State*, 287 Ga. 192 (695 SE2d 244) (2010). Because Ware has not raised a valid void-sentence claim, we may not consider his application. See *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010); *Harper*, supra. Accordingly, this application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/22/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lomax, *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 21, 2013

The Court of Appeals hereby passes the following order

A13D0511. IN THE INTEREST OF: C. T., A CHILD (MOTHER) .

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

10712J1010

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 21, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, August 28, 2013

The Court of Appeals hereby passes the following order

A13D0512. ALEX HIGDON v. JANE HIGDON.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

12GR064624 12GR064625 12GR064626

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 28, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 22, 2013

The Court of Appeals hereby passes the following order

A13D0513. DURANTE MARQUIS SMITH v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

07CR62654

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 22, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 29, 2013

The Court of Appeals hereby passes the following order

A13D0514. JEREMY PARTAIN v. ELBERT COUNTY SCHOOL DISTRICT.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13EV16

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 29, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 22, 2013

The Court of Appeals hereby passes the following order

A13D0515. GARRET MARKES v. JOY MCKENZIE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

13VS197539

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 22, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Spanos , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 03, 2013

The Court of Appeals hereby passes the following order:

A13D0516. IVORY HOPE CUSHEN v. WILLIAM R. CUSHEN.

Ivory Hope Cushen filed this application for discretionary appeal from the trial court's order denying her motion for the trial judge to disqualify himself from presiding over her pending divorce action. We lack jurisdiction.

"Denials of motions to recuse are interlocutory in nature. An appeal of such an order requires compliance with the interlocutory appeal provisions of OCGA § 5-6-34 (b)," including obtaining a certificate of immediate review within ten days of the order sought to be appealed. *Ellis v. Stanford*, 256 Ga. App. 294, 295 (2) (568 SE2d 157) (2002); see also *Warringer v. Warringer*, 204 Ga. App. 86 (418 SE2d 446) (1992). And OCGA § 5-6-35, the discretionary appeal statute, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6-34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996). Accordingly, Cushen's failure to comply with the interlocutory appeals procedures and obtain a certificate of immediate review deprives this Court of jurisdiction, and this application is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/03/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 03, 2013

The Court of Appeals hereby passes the following order:

A13D0517. WILL STEVENSON v. BAC HOME LOANS SERVICING.

This case began as a dispossessory action in magistrate court. Following an adverse ruling, defendant Will Stevenson appealed the magistrate court's decision to state court. In March 2013, the state court entered final judgment against Stevenson. He filed a motion for reconsideration in the state court, as well as a notice of direct appeal to this Court.[1] We dismissed the appeal because Stevenson was required to follow the discretionary appeal procedure. See OCGA § 5-6-35 (a) (11); *Strachan v. Meritor Mortgage Corp. East*, 216 Ga. App. 82 (453 SE2d 119) (1995). Upon receiving the remittitur, the state court denied Stevenson's motion for reconsideration. He then filed this application for discretionary appeal. Once again, however, we lack jurisdiction.

An appeal in a dispossessory action must be filed within seven days after entry of the order at issue. OCGA § 44-7-56; *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). An order denying a motion for reconsideration is not appealable in its own right. See *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Moreover, a motion for reconsideration does not extend the time for filing an application to appeal. See *Harris v. State*, 278 Ga. 280, 282 n.3 (600 SE2d 592) (2004). Thus, in order to appeal, Stevenson had to file his application within 7 days of the state court's March 2013 final judgment. His failure to do so deprives us of jurisdiction over this application, which is hereby DISMISSED.

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[1] See Case No. A13A1923, dismissed by Order of June 13, 2013.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/03/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lanoue, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 26, 2013

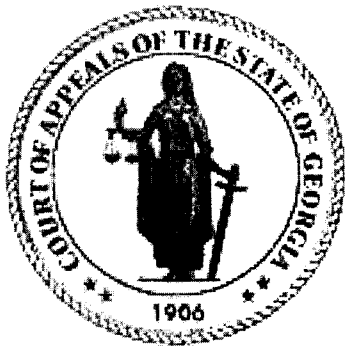
The Court of Appeals hereby passes the following order

A13D0518. PAMELA CHAMBERS v. MONROE COUNTY BOARD OF COMMISSIONERS.

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.

LC NUMBERS:

2013CV279



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 26, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Lamar , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 04, 2013

The Court of Appeals hereby passes the following order

A13D0519. LEVERN JOYNER v. THE STATE OF GEORGIA.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

03B1372

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 04, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 09, 2013

The Court of Appeals hereby passes the following order:

A13D0520. PHILLIP A. JONES v. UNION CITY GOVERNMENT, GEORGIA et al.

Phillip A. Jones filed a tort action against Wal-Mart and Union City. The trial court granted the defendants' motion for summary judgment, and Jones filed a notice of appeal from this ruling. When Jones failed to pay costs, the defendants moved to have the appeal dismissed. See OCGA § 5-6-48 (c). Jones then filed a motion to waive appeal costs under OCGA § 15-6-77 (e) (4). The trial court denied the motion, and Jones filed this application for discretionary appeal.

Because Jones's notice of appeal and the motion to dismiss the appeal remain pending in the trial court, the order that Jones wishes to appeal is interlocutory in nature. And "a party seeking appellate review from an interlocutory order must follow the interlocutory application subsection, OCGA § 5-6-34 (b), seek a certificate of immediate review from the trial court, and comply with the time limitations therein." (Citation omitted.) *Bailey v. Bailey*, 266 Ga. 832, 833 (471 SE2d 213) (1996); see also *Boyd v. State*, 191 Ga. App. 435 (383 SE2d 906) (1989). OCGA § 5-6-35, which governs the discretionary appeal procedure, does not excuse a party seeking appellate review of an interlocutory order from complying with the additional requirements of OCGA § 5-6- 34 (b). See *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996). Accordingly, Jones's failure to comply with the interlocutory appeal procedure deprives us of jurisdiction, and this application for discretionary appeal is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/09/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 29, 2013

The Court of Appeals hereby passes the following order:

A13D0521. HOLLIE L. INGRAM v. KEVIN D. LOUDERMILK, et al.

Hollie L. Ingram filed this application for discretionary appeal from the trial court's order that, inter alia, modified visitation. Pursuant to OCGA § 5-6-34 (a) (11), however, a direct appeal is authorized from "[a]ll judgments in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders." Here, the trial court's order is a custody order as it increases the visitation rights of the intervenors, and "[u]nder Georgia law, visitation rights are a part of custody." *Vines v. Vines*, 292 Ga. 550, 551 (2) (739 SE2d 374) (2013).

We will grant a timely-filed discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Ingram shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, she has already filed a notice of appeal, she need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/29/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Kelly K. O. Loomis , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 05, 2013

The Court of Appeals hereby passes the following order

A13D0522. JANET WATERS v. PCC AIRFOILS, LLC, 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.

LC NUMBERS:

2013SO3234

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 05, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, August 27, 2013

The Court of Appeals hereby passes the following order

A13D0523. MARK AARON SMITH 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.

LC NUMBERS:

2005CR247 2005CR229

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, August 27, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Holly K. O. Sparrow , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 06, 2013

The Court of Appeals hereby passes the following order:

A13D0524. PATRICK T. HOWARD v. THE STATE

On August 7, 2013, Patrick Howard filed this application for discretionary appeal. He appears to be seeking review of the trial court's June 18, 2013, order denying his request for a certificate of immediate review. We, however, lack jurisdiction.

First, this application is untimely. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Howard filed his application 50 days after entry of the order he seeks to appeal. Therefore, his application is untimely, and we lack jurisdiction to review it.

Second, the trial court's June 18 order is not subject to appellate review. The trial court has "unfettered" discretion to issue or refuse a certificate of immediate review, and appellate courts will not review the trial court's exercise of discretion in making that decision. See *Scruggs v. Ga. Dep't of Human Res.*, 261 Ga. 587 (1) (408 SE2d 103) (1991); *B & D Fabricators v. D.H. Blair Inv. Banking Corp.*, 220 Ga. App. 373, 375 (3) (469 SE2d 683) (1996).

For these reasons, this application is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/06/2013

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, March 21, 2014

The Court of Appeals hereby passes the following order:

A13D0525. JAMES E. THOMPSON v. THE STATE.

A13I0319. JAMES E. THOMPSON v. THE STATE.

On September 9, 2013, this Court denied the applications filed by James Thompson in Case Nos. A13D0525 and A13I0319, in which he challenged the trial court's denial of his petition for writ of error coram nobis and the denial of his motion to recuse, respectively. After the denial of his applications, Thompson submitted motions seeking a new trial before this Court. On December 18, 2013, this Court denied Thompson's motions, concluding that given the denial of his application for discretionary review, the ruling that Thompson was not entitled to a new trial was the law of the case. We also expressly found these motions to be frivolous and cautioned that further future filings that lacked substantial basis in law may result in the imposition of sanctions, pursuant to Ga. Ct. App. R. 15 (b) or OCGA § 42-12-7. Nonetheless, since the issuance of that order, Thompson has submitted seven filings in each case, one of which seeks reconsideration of the December 2013, order, and the other six of which are entitled "Motion to Supplement."

The time within which to seek reconsideration of the orders denying Thompson's applications has long passed. See Ga. Ct. App. R. 37 (b). Furthermore, Thompson is not authorized to file an unlimited number of motions seeking reconsideration of this Court's rulings. Ga. Ct. App. R. 37 (d) explicitly states that "[n]o party shall file a second motion for reconsideration unless permitted by order of the Court." Thompson has requested reconsideration or a new trial in seven filings

since this Court's last order in these cases, all of which are frivolous and lack substantial basis in the law. Accordingly, Thompson's petitions for reconsideration filed in both cases are hereby *DENIED*, and all "motions to supplement" filed subsequent thereto in both cases are also hereby *DENIED*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/21/2014
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals of the State of Georgia

ATLANTA, September 09, 2013

The Court of Appeals hereby passes the following order

A13D0525. JAMES E. THOMPSON v. THE STATE.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

LC NUMBERS:

04B3288 04B2984

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 09, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 11, 2013

The Court of Appeals hereby passes the following order

A13D0526. SELENA DUKES-WALTON v. ATLANTA BOARD OF EDUCATION .

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.

LC NUMBERS:

2013CV225790

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 11, 2013.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*

Court of Appeals
of the State of Georgia

ATLANTA, September 04, 2013

The Court of Appeals hereby passes the following order:

A13D0527. JIM L. JACKSON v. PYRAMID MASONRY CONTRACTORS, INC., ET AL.

A14D0005. JIM L. JACKSON v. PYRAMID MASONRY CONTRACTORS, INC., ET AL.

Jim Jackson received an on-the-job injury to his left elbow and arm on April 9, 1999. He filed a workers' compensation claim against his employer, Pyramid Masonry Contractors, the action was settled, and the settlement became the final award of the Board in September of 2002. It appears that Jackson attempted to reopen his case in 2012. Pyramid Masonry Contractors filed a motion to dismiss and its insurer filed a motion for summary judgment. In an order issued on April 19, 2013, the Appellate Division of the State Board of Workers' Compensation (the "Board") entered an order granting both motions. Jackson then filed a motion for reconsideration, which the Board denied on May 6, 2013. Jackson then filed an application for discretionary appeal in the Supreme Court on July 15, 2013, which transferred the case to this Court on August 19, 2013. That case was docketed as Case No. A14D0005. In the interim, Jackson filed a second application in this Court, which was docketed as A13D0527. We lack jurisdiction.

Jackson's pro se filings do not clearly indicate the relief he is seeking. The Board's order of April 19, 2013, is included in both applications, and the order denying his motion for reconsideration is included in Case No. A14D0005. In any event, Jackson is not entitled to a direct appeal in this Court. Rather, he was required to seek review of the Board's ruling by filing a timely notice of appeal in superior court. See OCGA § 34-9-105 (b). It does not appear that Jackson has sought such review, and the time to do so has expired. Jackson was required to appeal the Board's ruling within 20 days thereof. OCGA § 34-9-105 (b). Jackson filed a motion for reconsideration, but the denial of a motion for reconsideration is not directly appealable. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). And the

filing of such a motion does not extend the time for appealing the underlying order. See id.

Jackson's pro se applications contain a recitation of the physical and economic consequences he has suffered as a result of his injuries, and his plea for compensation as a result thereof. Jackson's brief enumerates no error committed by the trial court or the Board. "Since we are a court of law for the correction of legal errors committed by the trial court, [Jackson's] factual assertion[s] present[] nothing for review." *Johnson v. Aurora Loan Svcs.*, 256 Ga. App. 174, 175 (568 SE2d 84) (2002). *Lowe v. Brook Property, Inc.*, 241 Ga. App. 840 (528 SE2d 284) (2000). Accordingly, these applications are hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 09/04/2013
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen, *Clerk.*