

ATTACHMENT G: OCGA § 5-6-35 (2022). CASES REQUIRING APPLICATION FOR APPEAL

OCGA § 5-6-35 (2022). Cases requiring application for appeal; requirements for application; exhibits; response; issuance of appellate court order regarding appeal; procedure; supersedeas; jurisdiction of appeal; appeals involving nonmonetary judgments in custody cases

(a) Appeals in the following cases shall be taken as provided in this Code section:

- (1) Appeals from decisions of the superior courts reviewing decisions of the State Board of Workers' Compensation, the State Board of Education, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations;
- (2) Appeals from judgments or orders in divorce, alimony, and other domestic relations cases including, but not limited to, granting or refusing a divorce or temporary or permanent alimony or holding or declining to hold persons in contempt of such alimony judgment or orders;
- (3) Appeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;
- (4) Appeals from cases involving garnishment or attachment, except as provided in paragraph (5) of subsection (a) of Code Section 5-6-34;
- (5) Appeals from orders revoking probation;
- (5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual Offender Registration Review Board;
- (5.2) Appeals from decisions of superior courts granting or denying petitions for release pursuant to Code Section 42-1-19;
- (6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;
- (7) Appeals, when separate from an original appeal, from the denial of an extraordinary motion for new trial;
- (8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief upon a complaint in equity to set aside a judgment;
- (9) Appeals from orders granting or denying temporary restraining orders;
- (10) Appeals from awards of attorney's fees or expenses of litigation under Code Section 9-15-14;
- (11) Appeals from decisions of the state courts reviewing decisions of the magistrate courts by de novo proceedings so long as the subject matter is not otherwise subject to a right of direct appeal; and
- (12) Appeals from orders terminating parental rights.

(b) All appeals taken in cases specified in subsection (a) of this Code section shall be by application in the nature of a petition enumerating the errors to be urged on appeal and stating why the appellate court has jurisdiction. The application shall specify the order or judgment being appealed and, if the order or judgment is interlocutory, the application shall set forth, in addition to the enumeration of errors to be urged, the need for interlocutory appellate review.

- (c) The applicant 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. An applicant may include copies of such other parts of the record or transcript as he deems appropriate. No certification of such copies by the clerk of the trial court shall be necessary in conjunction with the application.
- (d) The application shall be filed with the clerk of the Supreme Court or the Court of Appeals within 30 days of the entry of the order, decision, or judgment complained of and a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties as provided by law, except that the service shall be perfected at or before the filing of the application. When a motion for new trial, a motion in arrest of judgment, or a motion for judgment notwithstanding the verdict has been filed, the application shall be filed within 30 days after the entry of the order granting, overruling, or otherwise finally disposing of the motion.
- (e) The opposing party or parties shall have ten days from the date on which the application is filed in which to file a response. The response may be accompanied by copies of the record in the same manner as is allowed with the application. The response may point out that the decision of the trial court was not an error, or that the enumeration of error cannot be considered on appeal for lack of a transcript of evidence or for other reasons.
- (f) The Supreme Court or the Court of Appeals shall issue an order granting or denying such an appeal within 30 days of the date on which the application was filed.
- (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. The procedure thereafter shall be the same as in other appeals.
- (h) The filing of an application for appeal shall act as a supersedeas to the extent that a notice of appeal acts as a supersedeas.
- (i) This Code section shall not affect Code Section 9-14-52, relating to practice as to appeals in certain habeas corpus cases.
- (j) When an appeal in a case enumerated in subsection (a) of Code Section 5-6-34, but not in subsection (a) of this Code section, is initiated by filing an otherwise timely application for permission to appeal pursuant to subsection (b) of this Code section without also filing a timely notice of appeal, the appellate court shall have jurisdiction to decide the case and shall grant the application. Thereafter the appeal shall proceed as provided in subsection (g) of this Code section.
- (k) Where an appeal is taken pursuant to this Code section for a judgment or order granting nonmonetary relief in a child custody case, such judgment or order shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order.