Court of Appeals
of the State of Georgia

ATLANTA, June 18, 2012

The Court of Appeals hereby passes the following order:

A12D0403. DANNY HAWK v. THE STATE.

Danny Hawk is facing prosecution for traffic violations, and he filed several pre-trial motions, including a motion to set aside his arraignment, a motion to stay his prosecution, and a motion to recuse the trial judge. On April 24, 2012, the judge denied the motions and refused to certify its ruling for interlocutory appeal under OCGA § 5-6-34 (b). Hawk then filed this application for discretionary appeal.

Because it appears that the prosecution of Hawk remains pending below, the order that Hawk 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 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, Hawk'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, 06/18/2012

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. Loarca , *Clerk.*