Court of Appeals
of the State of Georgia

ATLANTA, August 03, 2012

The Court of Appeals hereby passes the following order:

A12D0460. MICHAEL LAKE v. THE STATE.

Michael Lake has been charged with aggravated stalking. The trial court entered an order transferring custody of Lake to the Department of Human Resources for 90 days to evaluate his competency to stand trial. Lake seeks discretionary review of that order. The order, however, is interlocutory. The case is still pending below, and the trial court retains jurisdiction over Lake. See OCGA § 17-7-130 (b).[1]

Accordingly, Lake was required to use the interlocutory appeal procedures to appeal the order. See OCGA § 5-6-34 (b); *Boyd v. State*, 191 Ga. App. 435 (383 SE2d 906) (1989). Because Lake failed to follow those procedures, we lack jurisdiction to consider his application, which is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/03/2012
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. Spanos, *Clerk.*

[1] Where the court enters a finding that the defendant is mentally incompetent to stand trial, its order is immediately appealable. See *Georgia Dep't. of Human Res. v. Drust*, 264 Ga. 514 (448 SE2d 364) (1994). Here, however, the court has not yet ruled on Lake's competency to stand trial – it has only ordered a psychiatric evaluation.