Court of Appeals
of the State of Georgia

ATLANTA, November 20, 2012

The Court of Appeals hereby passes the following order:

A13I0070. BRYAN DEVINE v. THE STATE.

Bryan Devine was charged in superior court with aggravated child molestation, rape, and aggravated sexual battery, which alleged offenses occurred shortly after Devine's thirteenth birthday. Devine filed a motion to transfer the case to juvenile court, which the trial court denied on October 5, 2012. Devine obtained a certificate of immediate review on October 19, 2012, in which the trial court states that Devine did not timely receive its order denying the motion to transfer. Devine then filed an application for interlocutory review.

Under OCGA § 5-6-34 (b), a party may request interlocutory review only if the trial court certifies within ten days of entry of the order at issue that immediate review should be had. If the certificate of immediate review is not entered within that ten-day period, it is untimely, and the party seeking review must wait until final judgment to appeal. See OCGA § 5-6-34 (b); *Turner v. Harper*, 231 Ga. 175, 176 (200 SE2d 748) (1973). Although Devine obtained a certificate of immediate review, it was issued fourteen days after entry of the order on appeal. Since Devine's right to apply for an appeal was frustrated due to a clerical error in the trial court, as is stated in the trial court's order, Devine's remedy is to petition the trial court to vacate and re-enter the order in the manner described in *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). This circumstance, however, does not extend the 10-day time period during which an interlocutory order may be certified for immediate review. OCGA § 5-6-34 (b); see generally *Turner*, supra.

Accordingly, we lack jurisdiction to consider this interlocutory application, which is hereby DISMISSED as untimely.



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. O. Lanoue *, Clerk.*