Court of Appeals
of the State of Georgia

ATLANTA, February 04, 2016

The Court of Appeals hereby passes the following order:

A16A0674. CANDIDA SUMMERLIN v. THE STATE.

Candida Summerlin filed this direct appeal from the trial court's order denying her motion for summary judgment. We dismissed the appeal because the record did not contain a timely motion for new trial. Summerlin has filed a motion for reconsideration from this ruling, asserting that she filed a timely motion for new trial, but used the incorrect lower court case number. Summerlin attached documents showing that the trial court granted her motion to transfer the pleading to the correct case number. But the pleading was not, in fact, included in the record transmitted to this Court.[1]

Accordingly, Summerlin's motion for reconsideration is hereby GRANTED, and our prior dismissal order is VACATED. The appeal is REINSTATED and REMANDED to the trial court for completion of the record. Upon completion, the clerk is directed to transmit the complete record to this Court for re-docketing of the appeal. Summerlin need not file a second notice of appeal.

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[1] We are unable to assume jurisdiction based upon the documents submitted by Summerlin as an attachment to a pleading cannot be used in lieu of the record. See *Williams v. Morgan*, 262 Ga. App. 848 (1) (586 SE2d 740) (2003).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 02/04/2016

I certify that the above is a true extract from the minutes of 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.*