Court of Appeals
of the State of Georgia

ATLANTA, February 23, 2016

The Court of Appeals hereby passes the following order:

A16A0828. SCOTTIE DANIEL v. THE STATE.

Scottie Daniel was convicted of aggravated sexual battery and three counts of child molestation, and we affirmed his convictions on appeal. *Daniel v. State*, 292 Ga. App. 560 (665 SE2d 696) (2008). Daniel later filed an extraordinary motion for new trial, which the trial court denied. Daniel now seeks a direct appeal of the trial court's ruling. We, however, lack jurisdiction.

An order denying an extraordinary motion for new trial must be appealed by application for discretionary appeal. OCGA § 5-6-35 (a) (7); *Balkcom v. State*, 227 Ga. App. 327, 329 (489 SE2d 129) (1997). We therefore lack jurisdiction to consider this direct appeal. Moreover, Daniel filed an application for discretionary review of the trial court's order, but that application was dismissed as untimely. See Case Number A16D0073, dismissed October 22, 2015. Thus, the doctrine of res judicata also bars this direct appeal. See *Norris v. Norris*, 281 Ga. 566 (2) (642 SE2d 34) (2007). For these reasons, we lack jurisdiction to consider Daniel's appeal, and it is hereby DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/23/2016
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.*