Court of Appeals
of the State of Georgia

ATLANTA, March 15, 2017

The Court of Appeals hereby passes the following order:

A17D0305. WILLIAM MITCHELL v. THE STATE.

William Mitchell pled guilty to two counts of theft by receiving stolen property. He later filed motions for an out-of-time appeal and for the appointment of counsel, which the trial court denied. Mitchell filed a notice of direct appeal to this Court, and his appeal has been docketed as Case No. A17A1110. Mitchell also filed an application for discretionary appeal in the Supreme Court, which transferred the application here upon finding no basis for jurisdiction in that Court.

We lack jurisdiction over this application because it was not timely filed. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). The order that Mitchell wishes to appeal was entered on August 23,

2016, but he did not file this application until 141 days later, on January 11, 2017. Consequently, this application is hereby DISMISSED for lack of jurisdiction.[1]

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/15/2017
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.*

[1] Even if the application had been timely filed, we would dismiss it as superfluous in light of Mitchell's direct appeal pending from the same order.