Court of Appeals
of the State of Georgia

ATLANTA, March 14, 2018

The Court of Appeals hereby passes the following order:

A18A1318. ROBERT HOFFLER v. THE STATE.

A jury found Robert Hoffler guilty of malice murder and other offenses, and the Supreme Court affirmed the denial of his motion for a new trial on direct appeal. *Hoffler v. State*, 292 Ga. 537 (739 SE2d 362) (2013). In November 2016, Hoffler filed a "Motion for an Out-of-time Appeal on a Motion to Vacate a Void Indictment on Counsel's Ineffective[] Assistance and State Overreaching." After the trial court denied Hoffler's motion, he appealed to this Court. We lack jurisdiction.

Under our Constitution, the Supreme Court has appellate jurisdiction over "[a]ll cases in which a sentence of death was imposed or could be imposed." Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (8). Because a penalty of death may be imposed for the crime of malice murder, jurisdiction is proper in the Supreme Court. See OCGA § 16-5-1 (a), (e) (1); *Neal v. State*, 290 Ga. 563, 572 (722 SE2d 765) (2012) (Hunstein, C. J., concurring); see also *State v. Thornton*, 253 Ga. 524, 524 (1) (322 SE2d 711) (1984) (directing this Court to transfer "all cases in which either a sentence of death or of life imprisonment has been imposed upon conviction of murder"). Accordingly, Hoffler's appeal is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/14/2018
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.*