# Court of Appeals
# of the State of Georgia

ATLANTA, July 17, 2018

*The Court of Appeals hereby passes the following order:*

**A18A2068. BRIAN MALVERTY v. THE STATE.**

In December 1986, Brian Malverty pleaded guilty to two counts of felony murder and was sentenced to concurrent life terms. Thereafter, the denial of Malverty's motion for an out-of-time appeal of his guilty plea was affirmed on appeal. *Malverty v. State*, 303 Ga. 102 (810 SE2d 541) (2018). Malverty subsequently filed various motions, which the trial court denied.[1] Malverty then filed the instant direct appeal. We, however, 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 can be imposed for the crime of felony murder, jurisdiction is proper in the Supreme Court. See OCGA § 16-5-1 (c), (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"). The Supreme Court's jurisdiction over murder cases includes appeals from orders resolving post-judgment motions in such cases. See *Simpson v. State*, 292 Ga. 764, 764-765 (740 SE2d 124) (2013). Accordingly, Malverty's appeal is hereby TRANSFERRED to the Supreme Court for disposition.

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[1] Malverty's motion for production of transcripts and documents at the government's expense was granted in part.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta,* 07/17/2018

*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.*