

COURT OF APPEALS OF THE STATE OF GEORGIA

Robert Davis et al. v. CKA Auto Sales, LLC

A21A1353 (Ga. Ct. App. May 5, 2021) · No. A21A1353 · Decided May 12, 2021

SUMMARY

The Georgia Court of Appeals dismissed the direct appeal for lack of jurisdiction. The court held that a superior court judgment reviewing a magistrate court decision must be appealed by discretionary application under OCGA § 5-6-35(a)(1), and the plaintiffs had not followed that procedure.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	May 12, 2021
DOCKET	A21A1353
DISPOSITION	dismissed
PROCEDURAL POSTURE	After the magistrate court entered judgment for Robert and Kathy Davis, CKA Auto Sales, LLC appealed to the superior court. The superior court denied the Davises' claims, and the Davises filed a direct appeal in the Court of Appeals of Georgia.
PRECEDENTIAL VALUE	Published Court of Appeals order; precedential status not independently confirmed from the document text
PARTIES	Robert Davis, Kathy Davis v. CKA Auto Sales, LLC

TOPICS

appellate jurisdiction appellate procedure civil procedure

PRACTICE AREAS

Appellate procedure Civil procedure

QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction over a direct appeal from a superior court judgment reviewing a lower court decision.

2. Whether the plaintiffs were required to seek discretionary appellate review rather than file a direct appeal.

HOLDINGS

1. Appeals from superior court decisions reviewing lower court decisions by certiorari or de novo proceedings must be taken by application for discretionary appeal, not by direct appeal.

KEY QUOTATIONS

“Appeals from decisions of the superior courts reviewing decisions of lower courts by certiorari or de novo proceedings shall be by application for discretionary appeal.”

“Because the plaintiffs did not follow the proper procedure for requesting appellate review in this case, we lack jurisdiction, and this appeal is hereby DISMISSED.”

FACTUAL BACKGROUND

The magistrate court entered judgment in favor of Robert and Kathy Davis against CKA Auto Sales, LLC. CKA Auto Sales appealed that judgment to the superior court, which denied the Davises' claims. The Davises attempted to obtain review of the superior court's judgment by filing a direct appeal.

PROCEDURAL HISTORY

The magistrate court entered judgment in favor of the plaintiffs. CKA Auto Sales appealed to the superior court, which entered judgment denying the plaintiffs' claims. The plaintiffs then sought direct appellate review, but the Court of Appeals dismissed for lack of jurisdiction because review of a superior court decision reviewing a lower court decision must be sought by application for discretionary appeal.

DISPOSITION

dismissed

CASES CITED

- Bullock v. Sand, 260 Ga. App. 874, 875 (581 SE2d 333) (2003)

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ May 05, 2021 The Court of Appeals hereby passes the following order: A21A1353. ROBERT DAVIS et al. v. CKA AUTO SALES, LLC. The magistrate court entered a judgment in favor of plaintiffs Robert and Kathy Davis, and defendant CKA Auto Sales, LLC appealed to the superior court.

The superior court entered a judgment denying the plaintiffs' claims, and the plaintiffs filed this direct appeal. We lack jurisdiction. “Appeals from decisions of the superior courts reviewing

decisions of lower courts by certiorari or de novo proceedings shall be by application for discretionary appeal.” Bullock v. Sand, 260 Ga. App. 874, 875 (581 SE2d 333) (2003) (punctuation omitted); see also OCGA § 5-6-35 (a) (1).

Because the plaintiffs did not follow the proper procedure for requesting appellate review in this case, we lack jurisdiction, and this appeal is hereby DISMISSED. Court of Appeals of the State of Georgia Clerk’s Office, Atlanta,_____ 05/05/2021 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., Clerk.