

COURT OF APPEALS OF THE STATE OF GEORGIA

David Roberson v. The State

A16D0194 · No. A16D0194 · Decided January 11, 2016

SUMMARY

The Georgia Court of Appeals dismissed David Roberson’s pro se application for discretionary appeal for lack of jurisdiction. The application was filed 175 days after the trial court’s order, exceeding the 30-day deadline under OCGA § 5-6-35(d).

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	January 11, 2016
DOCKET	A16D0194
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se application for discretionary appeal from the trial court's order denying a motion for declaratory judgment and injunctive relief.
STANDARD OF REVIEW	The Court of Appeals treated compliance with the statutory deadline for a discretionary appeal as a jurisdictional prerequisite.
PRECEDENTIAL VALUE	Published Court of Appeals of Georgia opinion; precedential status is not otherwise specified in the source.
PARTIES	David Roberson v. The State

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 discretionary-appeal application filed 175 days after the trial court's order.

HOLDINGS

1. A discretionary-appeal application must be filed within 30 days after entry of the order or judgment to be appealed, and the statutory requirements are jurisdictional. Because Roberson filed his application 175 days after the order, the Court of Appeals lacked jurisdiction.

KEY QUOTATIONS

“The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith.”

FACTUAL BACKGROUND

The trial court entered an order denying David Roberson's motion for a declaratory judgment and injunctive relief on June 23, 2015. Roberson filed his discretionary-appeal application on December 15, 2015, 175 days after the order was entered.

PROCEDURAL HISTORY

The trial court denied Roberson's motion for a declaratory judgment and injunctive relief on June 23, 2015. Roberson filed an application for discretionary appeal on December 15, 2015, 175 days after entry of the order. The Court of Appeals dismissed the application for lack of jurisdiction because it was filed outside the statutory 30-day deadline.

DISPOSITION

dismissed

CASES CITED

- Boyle v. State, 190 Ga. App. 734, 380 S.E.2d 57 (1989)

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ January 08, 2016
The Court of Appeals hereby passes the following order: A16D0194. DAVID ROBERSON v. THE STATE. David Roberson has filed a pro se application for discretionary appeal from the trial court's June 23, 2015, order denying his motion for a declaratory judgment and injunctive relief.

Roberson filed his application on December 15, 2015. We lack jurisdiction because the application is untimely. An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See 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. See Boyle v. State, 190 Ga. App. 734 (380 SE2d 57)

(1989). Roberson filed his application 175 days after entry of the order he seeks to appeal. His application is thus untimely, and it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia 01/08/2016 Clerk's Office, Atlanta,_____ 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.