


O.C.G.A. § 5-6-34

Current through the 2025 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 5 Appeal And Error (Chs. 1 — 7) >
CHAPTER 6 Certiorari and Appeals to Appellate Courts Generally (Arts. 1 — 2) > Article 2
Appellate Practice (§§ 5-6-30 — 5-6-51)

Notice

 This section has more than one version with varying effective dates.

5-6-34. [Effective until July 1, 2026] Judgments and rulings deemed directly appealable; procedure for review of judgments, orders, or decisions not subject to direct appeal; review of certain pretrial proceedings; appeal of certain relief in child custody cases.

(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the following judgments and rulings of the superior courts, the Georgia State-wide Business Court, the constitutional city courts, and such other courts or tribunals from which appeals are authorized by the Constitution and laws of this state:

(1)

(A) As used in this paragraph, the term “final judgment” shall include an order in a criminal proceeding with a multiple-count indictment or accusation which results in an adjudication of fewer than all of the counts in such indictment or accusation, the remainder of which are ordered dead docketed.

(B) All final judgments, that is to say, where the case is no longer pending in the court below, except as provided in [Code Section 5-6-35](#);

(2) All judgments involving applications for discharge in bail trover and contempt cases;

(3) All judgments or orders directing that an accounting be had;

(4) All judgments or orders granting or refusing applications for receivers or for interlocutory or final injunctions;

(5) All judgments or orders granting or refusing applications for attachment against fraudulent debtors;

(6) Any ruling on a motion which would be dispositive if granted with respect to a defense that the action is barred by [Code Section 16-11-173](#);

- (7) All judgments or orders granting or refusing to grant mandamus or any other extraordinary remedy, except with respect to temporary restraining orders;
 - (8) All judgments or orders refusing applications for dissolution of corporations created by the superior courts;
 - (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a will;
 - (10) All judgments or orders entered pursuant to subsection (c) of [Code Section 17-10-6.2](#);
 - (11) All judgments or orders in child custody cases awarding, refusing to change, or modifying child custody or holding or declining to hold persons in contempt of such child custody judgment or orders;
 - (12) All judgments or orders entered pursuant to [Code Section 35-3-37](#);
 - (13) All judgments or orders entered pursuant to [Code Section 9-11-11.1](#);
 - (14) All final judgments or orders reviewing a zoning decision, as such term is defined in paragraph (4) of Code Section 36-66-3;
 - (15) All judgments, orders, or rulings in civil actions granting or denying or refusing to grant or deny immunity to one or more parties based upon sovereign, municipal, official, qualified, or judicial immunity established by the United States Constitution or the Constitution, laws, or common law of this state shall have the right of direct appeal under this paragraph, and such right shall be exercised within 30 days of any judgment, order, or ruling. The right of direct appeal under this paragraph shall not be exercised by any one party more than once in any civil action. This paragraph shall not preclude taking an appeal pursuant to any other paragraph in this subsection; and
 - (16) All judgments, orders, or rulings in civil or criminal actions granting or denying or refusing to grant or deny one or more parties' legislative privilege or legislative immunity established by the United States Constitution or the Constitution, laws, or common law of this state shall have the right of direct appeal under this paragraph, and such right shall be exercised within 30 days of any judgment, order, or ruling.
- (b) Where the trial judge in rendering an order, decision, or judgment, not otherwise subject to direct appeal, including but not limited to the denial of a defendant's motion to recuse in a criminal case, certifies within ten days of entry thereof that the order, decision, or judgment is of such importance to the case that immediate review should be had, the Supreme Court or the Court of Appeals may thereupon, in their respective discretions, permit an appeal to be taken from the order, decision, or judgment if application is made thereto within ten days after such certificate is granted. The application shall be in the nature of a petition and shall set forth the need for such an appeal and the issue or issues involved therein. The applicant may, at his or her election, include copies of such parts of the record as he or she deems appropriate, but no certification of such copies by the clerk of the trial court shall be necessary. The application shall be filed with the clerk of the Supreme Court or the Court of Appeals and a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties in the case in the manner prescribed by [Code Section 5-6-32](#), except that such service shall be perfected at or before the filing of the application. The opposing party or parties shall have ten days from the date on which the application is filed in which to file a response. The response may

be accompanied by copies of the record in the same manner as is allowed with the application. The Supreme Court or the Court of Appeals shall issue an order granting or denying such an appeal within 45 days of the date on which the application was filed. Within ten days after an order is issued granting the appeal, the applicant, to secure a review of the issues, may file a notice of appeal as provided in [Code Section 5-6-37](#). The notice of appeal shall act as a supersedeas as provided in [Code Section 5-6-46](#) and the procedure thereafter shall be the same as in an appeal from a final judgment.

(c) In criminal cases involving a capital offense for which the death penalty is sought, a hearing shall be held as provided in [Code Section 17-10-35.2](#) to determine if there shall be a review of pretrial proceedings by the Supreme Court prior to a trial before a jury. Review of pretrial proceedings, if ordered by the trial court, shall be exclusively as provided by [Code Section 17-10-35.1](#) and no certificate of immediate review shall be necessary.

(d) Where an appeal is taken under any provision of subsection (a), (b), or (c) of this Code section, all judgments, rulings, or orders rendered in the case which are raised on appeal and which may affect the proceedings below shall be reviewed and determined by the appellate court, without regard to the appealability of the judgment, ruling, or order standing alone and without regard to whether the judgment, ruling, or order appealed from was final or was appealable by some other express provision of law contained in this Code section, or elsewhere. For purposes of review by the appellate court, one or more judgments, rulings, or orders by the trial court held to be erroneous on appeal shall not be deemed to have rendered all subsequent proceedings nugatory; but the appellate court shall in all cases review all judgments, rulings, or orders raised on appeal which may affect the proceedings below and which were rendered subsequent to the first judgment, ruling, or order held erroneous. Nothing in this subsection shall require the appellate court to pass upon questions which are rendered moot.

(e) Where an appeal is taken pursuant to this Code section for a judgment or order granting nonmonetary relief in a child custody case, such judgment or order shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order.

History

Orig. Code 1863, § 4159; Code 1868, § 4191; Code 1873, § 4250; Code 1882, § 4250; Ga. L. 1890-91, p. 82, § 1; Civil Code 1895, § 5526; Penal Code 1895, § 1069; Civil Code 1910, § 6138; Penal Code 1910, § 1096; Code 1933, § 6-701; Ga. L. 1965, p. 18, § 1; Ga. L. 1968, p. 1072, § 1; Ga. L. 1975, p. 757, § 1; Ga. L. 1979, p. 619, §§ 1, 2; Ga. L. 1984, p. 599, § 1; Ga. L. 1988, p. 1437, § 1; Ga. L. 1994, p. 347, § 1; Ga. L. 2001, p. 88, § 1; [Ga. L. 2005, p. 20, § 2/HB 170](#); [Ga. L. 2005, p. 224, § 2/HB 221](#); [Ga. L. 2006, p. 379, § 2/HB 1059](#); [Ga. L. 2006, p. 583, § 1/SB 382](#); [Ga. L. 2007, p. 554, § 2/HB 369](#); [Ga. L. 2011, p. 562, § 1/SB 139](#); [Ga. L. 2012, p. 899, § 8-1/HB 1176](#); [Ga. L. 2013, p. 735, § 1/SB 204](#); [Ga. L. 2016, p. 341, § 1/HB 513](#); [Ga. L. 2019, p. 845, § 2-3/HB 239](#); [Ga. L. 2024, p. 888, § 2-4/HB 1267](#), effective July 1, 2026; [Ga. L. 2025, p. 476, § 2-1/HB 155](#), effective July 1, 2025; [Ga. L. 2025, p. 621, § 1-1/HB 176](#), effective May 14, 2025; [Ga. L. 2025, p. 772, § 1/SB 298](#), effective July 1, 2025.

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