

Court of Appeals of the State of Georgia

ATLANTA, April 27, 2026

The Court of Appeals hereby passes the following order:

A26A0754. JACKSON v. CITY OF ATLANTA

Brian Jackson—who owns property on West Wesley Road—sought permission twice from the City of Atlanta to cut down certain trees on his property because his insurer demanded he do so. The Tree Conservation Commission (“TCC”) denied both of Jackson’s permit requests and he did not appeal those denials. In July 2024, Andrew Bedson—a City arborist who knew the permit requests had been denied—passed by Jackson’s property and noticed the trees had been removed. So, Bedson—on the City’s behalf—sent Jackson a letter advising him that he had been assessed a cash recompense of \$20,230.00 for the illegal destruction of 12 trees on his property. Jackson then appealed the penalty imposition to the TCC, claiming the trees he removed were either dying or hazardous to the property. The TCC issued its final decision, upholding the assessment, but conditionally reducing the fines by \$3,000 if Jackson replanted six trees on his property.¹ Jackson then appealed the TCC’s decision by filing a petition for review in superior court, claiming the City lacked the authority to promulgate the tree ordinance and that its decision violated his equal protection and due-process rights. The superior court held a hearing and affirmed the TCC’s determination. Jackson then filed a petition for discretionary review of the superior court’s order, which we granted on October 17, 2025. But in light of the Supreme Court’s decision in *City of Albany v. South Georgia Rails to Trails, Inc.*, S25C1419 (April 21, 2026), we lack jurisdiction to consider this application; so we

¹ Jackson timely notified the City that he planned to appeal.

vacate our grant of the application and transfer it to the Supreme Court of Georgia for its consideration.

As explained in *South Georgia Rails to Trails*, whenever the Court of Appeals is presented with a constitutional question implicating the Supreme Court of Georgia's exclusive jurisdiction in an interlocutory or discretionary application, we must immediately transfer that application to our Supreme Court for its consideration. S25C1419, slip op. at 1 (noting that "because the application presented a novel constitutional question, the Court of Appeals lacked jurisdiction to consider the application."); see also Ga. Const. of 1983, Art. VI, Sec. VI, Par. II (1) (providing that the Supreme Court of Georgia has exclusive jurisdiction appellate jurisdiction over "all cases involving the construction of ... the Constitution of the State of Georgia and all cases in which the constitutionality of a law, ordinance, or constitutional provision has been drawn into question."). Significantly, for a constitutional question to fall within the exclusive jurisdiction of the Supreme Court of Georgia, it must have been "raised before the trial court, distinctly ruled upon by that court, and enumerated as error on appeal." *NBCUniversal Media, LLC v. Walker*, No. S25A0986, slip op. at 2-3. (Ga. Feb. 3, 2026) (2026 WL 270741). And as the *South Georgia Rails to Trails* Court helpfully reminded us, "distinctly ruled upon" does not mean that the trial court "must have engaged in a substantive analysis of the issue." S25C1419, slip op. at 1. To the contrary, the "distinct-ruling requirement"—according to our Supreme Court—"may be met by a summary or implicit ruling on the relevant constitutional question." *Id.*; see also *Wilkes & McHugh, P.A. v. LTC Consulting, L.P.*, 306 Ga. 252, 257 (830 SE2d 119) (2019) ("After briefing and oral argument, the Court of Appeals . . . properly transferred the case to this Court based on the plaintiffs' First Amendment challenge ... which the trial court implicitly rejected in denying the defendants' motion."); *Rouse v. Dept. of Natural Resources*, 271 Ga. 726, 728 (524 SE2d 455) (1999) (finding jurisdiction in the Supreme Court of Georgia despite lack of explicit trial court ruling on constitutional challenges to statute where "the trial

court must necessarily have rejected each of those issues to affirm the administrative decision”). This is such a case.

Here, Jackson enumerated four separate and seemingly novel constitutional challenges to the City of Atlanta’s Tree Protection Ordinance, arguing the superior court erred in failing to engage in a *de novo* review of the legal issues raised because the ordinance (1) deprives him of his constitutional right to defend himself against a criminal offense before a court of this state; (2) deprives him of his right to defend himself before a jury when charged with a serious criminal offense; (3) violates his constitutional right to a jury trial in civil matters; and (4) violates his rights under the Fourteenth Amendment to the United States Constitution. Even so, the superior court’s order notes that it “reviewed all question of law *de novo*.” These challenges to the constitutionality of the ordinance, then, were raised before the trial court, “distinctly ruled upon,” and enumerated as error in Jackson’s discretionary application. As a result, as required by *South Georgia Rails to Trails*, *Wilkes*, and *Rouse*, this case is TRANSFERRED to the Supreme Court of Georgia for its consideration.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/27/2026

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.

Christina Bailey Smith

, Clerk.