

Court of Appeals of the State of Georgia

ATLANTA, July 07, 2026

The Court of Appeals hereby passes the following order:

A26A2381. WILLIAM HAYWOOD GORDON v. WELLS FARGO BANK, N.A.

In this civil action, the trial court issued a final order on January 9, 2026, granting the defendants' motion to dismiss the complaint filed by plaintiff William Haywood Gordon. Gordon filed a motion to set aside the final order under OCGA § 9-11-60(d). On May 28, 2026, the trial court issued an order denying the motion and clarifying that in issuing the final order, it had reviewed Gordon's amended complaint and the defendants' motion to dismiss the amended complaint. Gordon then filed both this direct appeal and an application for discretionary review, which has been docketed as Case No. A26D0620. We lack jurisdiction over this direct appeal.

The discretionary appeal procedures are required to appeal the denial of a motion to set aside a judgment filed under OCGA § 9-11-60(d), and the underlying subject matter generally controls in determining the proper procedure to follow to appeal. OCGA § 5-6-35(a)(8); *Noaha, LLC v. Vista Antiques & Persian Rugs*, 306 Ga. App. 323, 326(1) (702 SE2d 660) (2010). Compliance with the discretionary appeals procedure is jurisdictional. *Smoak v. Dep't of Human Res.*, 221 Ga. App. 257, 257 (471 SE2d 60) (1996).

Because the underlying subject matter here is the trial court's denial of Gordon's motion to set aside under OCGA § 9-11-60(d), Gordon's failure to comply with the discretionary appeal procedures deprives us of jurisdiction over this direct appeal, which is hereby DISMISSED. See *Noaha, LLC*, 306 Ga. App. at 326(1); *Thibadeau v. Hendon*, 221 Ga. App. 258, 259 (471 SE2d 52) (1996).



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Clerk's Office, Atlanta, 07/07/2026

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.