

Court of Appeals of the State of Georgia

ATLANTA, July 23, 2026

The Court of Appeals hereby passes the following order:

A26A1072. SI VAN HUYNH v. PHUONG THI HUYNH.

Si Van Hyunh (“Husband”) and Phuong Thi Huynh (“Wife”) were divorced in January 2025 pursuant to a final judgment and decree of divorce that incorporated the parties’ settlement agreement. In April 2025, Husband moved to set aside both the divorce decree and the incorporated settlement agreement, citing both OCGA § 9-11-60(d) and the court’s inherent authority to vacate or set aside a judgment during the same term in which it was entered. See *Levin Co. v. Walker*, 289 Ga. App. 299, 300 (656 SE2d 588) (2008). The trial court denied that motion in an order entered on November 17, 2025. Husband filed this direct appeal on December 18, 2025. We lack jurisdiction for two reasons.

First, an appeal from the denial of a motion to vacate or set aside requires the filing of an application for discretionary appeal. See OCGA § 5-6-35(a)(8), (b); *Jim Ellis Atlanta v. Adamson*, 283 Ga. App. 116, 116-17 (640 SE2d 688) (2006). Similarly, “[a]ppeals from judgments or orders in divorce, alimony, and other domestic relations cases” must be initiated by filing an application for discretionary review. OCGA § 5-6-35(a)(2), (b); see also *Evans v. Jackson*, 368 Ga. App. 170, 173 (1)(b) (889 SE2d 343) (2023). “Compliance with the discretionary appeals procedure is jurisdictional.” *Hair Restoration Specialists v. State of Ga.*, 360 Ga. App. 901, 903 (862 SE2d 564) (2021) (citation and punctuation omitted). Thus, “[f]ailure to file an application when one is necessary requires that the appeal be dismissed.” *Evans*, 368 Ga. App. at 173(1) (citation and punctuation omitted).

Moreover, even if Husband were otherwise entitled to a direct appeal, this

appeal is untimely. A notice of appeal must be filed within 30 days of entry of the judgment or trial court order sought to be appealed. OCGA § 5-6-38(a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction upon this Court. *Yanes v. Escobar*, 362 Ga. App. 896, 898 (870 SE2d 506) (2022). Here, Husband did not file his notice of appeal until 31 days after entry of the trial court's order, meaning that his appeal is untimely.

Given our lack of jurisdiction, this appeal is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 07/23/2026

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 Coley Smith

, Clerk.