

Court of Appeals of the State of Georgia

ATLANTA, August 13, 2026

The Court of Appeals hereby passes the following order:

**A27A0070. ELAINE TURNER v. BARBARA RIVERA HOLMES,
COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR.**

The Board of Review of the Georgia Department of Labor denied Elaine Turner's claim for unemployment benefits. Turner filed a petition for review to the superior court, and the superior court affirmed the Board's decision. Turner then filed a motion to set aside pursuant to OCGA § 9-11-60(a), which the trial court denied on June 9, 2026. On July 13, 2026, Turner filed a notice of appeal. We, however, lack jurisdiction for two reasons.

First, the underlying subject matter generally controls over the relief sought in determining the proper procedure for seeking appellate relief. *Prison Health Servs. v. Ga. Dep't. of Admin. Servs.*, 265 Ga. 810, 811(1) (462 SE2d 601) (1995) (an order is subject to the discretionary application procedure "if the underlying subject matter of the appeal is one contained in OCGA § 5-6-35"); see also *Adivari v. Sears, Roebuck & Co.*, 221 Ga. App. 279 (471 SE2d 59) (1996). The underlying subject matter of this appeal is a decision of the Board of Review of the Department of Labor. Thus, Turner was required to file an application for discretionary appeal. See *Dunlap v. City of Atlanta*, 272 Ga. 523, 524 (531 SE2d 702) (2000). Second, even if Turner had a right of direct appeal here, this appeal is untimely. A notice of appeal must be filed within 30 days after entry of an appealable order. See OCGA § 5-6-38(a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. See *Perlman v. Perlman*, 318 Ga. App. 731, 739(4) (734 SE2d 560) (2012). Turner's notice of appeal, filed 34 days after entry of the superior court's order, was

untimely.

For these reasons, this appeal is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/13/2026

*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.