

Court of Appeals of the State of Georgia

ATLANTA, August 17, 2026

The Court of Appeals hereby passes the following order:

A27D0005. MISTEE DAWN ROWLAND v. ELIZABETH BRAUN.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

MCFADDEN, PRESIDING JUDGE, CONCURRING FULLY AND SPECIALLY.

MCFADDEN, Presiding Judge, concurring fully and specially.

Our Supreme Court has held, “Where a party ‘puts the machinery of immediate appellate review into motion, yet commits a procedural default fatal to his appeal,’ that party ‘is foreclosed from thereafter resubmitting the matter for review on appeal.’ *Mitchell v. Oliver*, 254 Ga. 112, 114 (327 SE2d 216) (1985).” *Massey v. Massey*, 294 Ga. 163, 165 (2) (751 SE2d 330) (2013) (punctuation omitted). The case before us falls under that line of authority. “Of course, we are bound to abide by the decisions of our Supreme Court.” *Harmon v. Progressive Premier Ins. Co. of Illinois*, 370 Ga. App. 540, 541–42 (2) (897 SE2d 653) (2024). So I concur.

But I reiterate our respectful suggestion in the footnote to *Harmon*. “[O]ur Supreme Court should reexamine that rule. It is a judge-made rule.” *Harmon*, 370 Ga. App. at 542 (2) n. 1. We detailed in the note that, “[a]s a matter of logic, *Mitchell*

cannot withstand analysis” and “[a]s a matter of policy, *Mitchell* is inconsistent with the express intent and the express direction of the Appellate Practice Act.” *Harmon*, *supra*.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/17/2026

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.