

**FIRST DIVISION
BARNES, P. J.,
MARKLE and HODGES, JJ.**

**NOTICE: Motions for reconsideration must be received no later than 4:30 pm on the 10th day after the decision was issued to be deemed timely filed.
<https://www.gaappeals.gov/rules>**

October 1, 2026

In the Court of Appeals of Georgia

A26A1108. MARTIN v. GRIFFITH.

HODGES, Judge.

Quintez Martin, acting pro se, appeals a trial court order holding him in contempt for failing to pay child support to his ex-wife, Candace Griffith, and ordering his incarceration until he purged his contempt. He asserts various enumerations of error related to the contempt ruling. We previously affirmed the trial court's findings that Martin's failure to pay child support was willful and that he had a present ability to pay the purge amount. However, we vacated the contempt order based on an improper self-executing arrest provision, vacated the trial court's award of attorney fees to Griffith based on the court's failure to specifically delineate the statutory basis and issue appropriate findings of fact to support the award of fees, and remanded the

case for the court to enter a new contempt order that remedied the deficiencies addressed in that opinion.

After we issued our opinion, Martin filed a timely motion for reconsideration, which he amended. Martin acknowledges that appellate review is limited to the errors he enumerated in his application, see *Zekser v. Zekser*, 293 Ga. 366, 369(2) (744 SE2d 698) (2013) (“An application for discretionary review must enumerate the errors to be urged on appeal, and so, when we grant discretionary review, it necessarily is limited to the errors actually enumerated in the application.”) (citation and punctuation omitted), but he now argues that the trial court lacked subject-matter jurisdiction.¹ According to Martin, this Court “has misapprehended the law regarding the non-waivable nature of the trial court’s lack of subject matter jurisdiction under

¹ Although Martin’s amended appellate brief mentioned jurisdiction, it did so under an enumeration of error specifically stating that the trial court “erred in exercising *personal* jurisdiction over the nonresident [a]ppellant for child support purposes.” (Emphasis added.) This enumeration was deemed forfeited in our original opinion, and, in any case, Martin never used the phrase “subject-matter jurisdiction” during his argument in this forfeited enumeration. While subject-matter jurisdiction is an issue that this Court can address sua sponte if a problem is apparent, see *Cowart v. Ga. Power Co.*, 354 Ga. App. 748, 752-53 (841 SE2d 426) (2020), it was Martin’s “burden of proving trial court error by the appellate record ... [and] if we ... missed something in the record or misconstrued an argument, the responsibility rests with [Martin.]” *Hayle v. Ingram*, 363 Ga. App. 657, 660(1) (872 SE2d 310) (2022).

the Uniform Interstate Family Support Act (UIFSA), which renders the underlying judgment void *ab initio*.” For the reasons that follow, we vacate our original opinion, reverse the trial court’s contempt order, and remand the case with direction.

Our decision in this case turns on two issues: (1) whether Martin’s jurisdictional argument is timely asserted, and (2) whether Martin’s jurisdictional argument has merit.

1. *Timeliness of the argument.* It is undisputed that Martin did not raise his subject-matter jurisdiction argument in his application for discretionary appeal or in a specific enumeration in his appellate briefs; it was only briefly implicated by cases Martin cited in a forfeited enumeration of error. As such, the argument was officially brought before this Court for the first time in Martin’s motion for reconsideration following the issuance of this Court’s opinion.

(a) *Appellate arguments generally.* Generally, appellate courts, including this Court, are for the correction of errors committed in the trial court, and “[f]airness to the trial court and to the parties demands that legal issues be asserted in the trial court” before they come to us. *Pfeiffer v. Ga. Dep’t of Transp.*, 275 Ga. 827, 829(2) (573 SE2d 389) (2002); accord *Sharpe v. Dep’t of Transp.*, 270 Ga. 101, 103 (505 SE2d

473) (1998) (“On appeal only issues properly raised before the trial court will be considered.”). The usual rule is that a party “must stand or fall upon the position taken in the trial court[,]” and we routinely refuse “to review issues not raised in the trial court.” *Pfeiffer*, 275 Ga. at 829(2) (punctuation omitted). Absent special circumstances, which could include a jurisdictional challenge, we need not consider arguments raised for the first time on appeal. *Id.* Accord *State of Ga. v. Fed. Def. Program*, 315 Ga. 319, 343(3)(f) (882 SE2d 257) (2022) (finding that such special circumstances include the lack of subject-matter jurisdiction).

(b) *Appellate arguments in a motion for reconsideration.* It is well settled that a party may not use a motion for reconsideration to expand upon or raise issues not addressed in their initial appellate brief. See *Barnes v. State Farm Fire & Casualty Co.*, 373 Ga. App. 331, 341 (907 SE2d 305) (2024) (on motion for reconsideration) (declining to grant reconsideration because the party “never raised th[e] argument in its appellate brief, nor did [he] cite the cases on which [he] now relies for [his] position”). See also *State v. Dean*, 375 Ga. App. 171, 176 (914 SE2d 541) (2025) (on motion for reconsideration) (“[W]e do not grant motions for reconsideration when arguments are raised for the first time at this stage.”). We base these decisions on

Court of Appeals Rule 37(e), which provides that a motion for reconsideration shall be granted “only when it appears that the Court overlooked a material fact in the record, a statute, or a decision which is controlling as authority and which would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority.” New issues raised in a motion for reconsideration do not meet this standard.

Here, Martin argued in his initial appellate brief that the trial court lacked personal jurisdiction under OCGA § 19-11-110, the UIFSA statute which expressly denotes when a trial court in this State “may exercise personal jurisdiction over a nonresident individual” in a proceeding to establish or enforce a support order. In his motion for reconsideration, Martin now argues that the trial court lacked subject-matter, as opposed to personal, jurisdiction. Typically this Court would decline to consider an argument raised for the first time in an appeal or a motion for reconsideration. However, although Martin has pointed to no statute or case law, and our research has revealed none, addressing whether subject-matter jurisdiction may be raised in a motion for reconsideration, we find that such an argument is permissible at this juncture of a case given our Supreme Court’s broad language permitting an

attack on subject-matter jurisdiction at *any time*. See, e.g., *Abushmais v. Erby*, 282 Ga. 619, 622(3) (652 SE2d 549) (2007).

(c) *Subject-matter jurisdiction arguments*. Our Supreme Court and this Court repeatedly have stated that a court’s lack of subject-matter jurisdiction “cannot be waived and may be raised at *any time* either in the trial court, in a collateral attack on a judgment, or in an appeal.” *Abushmais*, 282 Ga. at 622(3) (punctuation omitted; emphasis added). Accord *Fed. Def. Program*, 315 Ga. at 343(3)(f); *Kogel v. Kogel*, 337 Ga. App. 137, 140 (786 SE2d 518) (2016). According to our Supreme Court, “there is no time limitation on attacking a judgment ‘void on its face’ due to lack of jurisdiction[.]” *Murphy v. Murphy*, 263 Ga. 280, 283 (430 SE2d 749) (1993). See also OCGA § 9-11-60(a),(f) (denoting when a judgment void on its face may be attacked).

“Indeed, the Supreme Court of the United States has recognized that, although our legal system is replete with rules requiring that certain matters be raised at particular times, objections to subject-matter jurisdiction may be raised at any time, even if the party previously acknowledged the trial court’s jurisdiction.” *Kogel*, 337 Ga. App. at 140, quoting *Henderson v. Shinseki*, 562 US 428, 434-35(II) (131 SCt 1197, 179 LE2d 159) (2011) (punctuation and footnotes omitted). A judgment lacking

subject-matter jurisdiction “is a mere nullity and may be so held in any court when it becomes material to the interest of the parties to consider it.” OCGA § 9-12-16. See also *Dix v. Dix*, 132 Ga. 630, 633 (64 SE 790) (1909) (“A suit in a court having no jurisdiction of the subject-matter, resulting in a judgment for the defendant, is a nullity”) (punctuation omitted).

The phrase “subject-matter jurisdiction” “refers to subject matter alone, i.e., conferring jurisdiction in specified kinds of cases. Jurisdiction of the subject matter does not mean simply jurisdiction of the particular case then occupying the attention of the court, but jurisdiction of the class of cases to which that particular case belongs.” *Abushmais*, 282 Ga. at 620(1) (citation and punctuation omitted). Accord *Zeagler v. Zeagler*, 192 Ga. 453, 456 (15 SE2d 478) (1941).

Jurisdiction of the subject-matter is the power to deal with the general abstract question, to hear the particular facts in any case relating to this question, and to determine whether or not they are sufficient to invoke the exercise of that power. It is not confined to cases in which the particular facts constitute a good cause of action, but it includes every issue within the scope of the general power vested in the court by the law of its organization to deal with the abstract question.

Melton v. Jenkins, 50 Ga. App. 615 (178 SE 754) (1935) (punctuation omitted).

“It is the sine qua non to a valid judgment, and may not be waived by consent of the parties.” *Hopkins v. Hopkins*, 237 Ga. 845, 846(1) (229 SE2d 751) (1976) (punctuation omitted). In fact, it is well settled in Georgia that “jurisdiction of the subject matter cannot be waived, consent cannot confer jurisdiction, and the lack of jurisdiction can be taken advantage of at *any time*.” *Cheatham Fletcher Scott Architects, P.C. v. Hull 2000, LLP*, 352 Ga. App. 691, 697(5) (835 SE2d 644) (2019) (punctuation omitted; emphasis added). See also *Jackson v. Gamble*, 232 Ga. 149, 152 (205 SE2d 256) (1974) (holding that waiver or consent to jurisdiction cannot confer jurisdiction over the subject matter); OCGA § 15-1-2 (“Parties may not give jurisdiction to a court by consent, express or implied, as to the person or subject matter of an action. However, lack of jurisdiction of the person may be waived, insofar as the rights of the parties are concerned, but not so as to prejudice third persons.”).

“Whenever it appears, by suggestion of the parties or otherwise, that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.” OCGA § 9-11-12(h)(3). “[W]hether a trial court lack[s] subject-matter jurisdiction is an issue of law that we review de novo for plain legal error.” *Kogel*, 337 Ga. App. at 140 n. 7

(punctuation omitted). See also *Delgado v. Combs*, 314 Ga. App. 419, 425-26(1) (724 SE2d 436) (2012).

Given the foregoing principles, we conclude that subject-matter jurisdiction can be raised at any time, including in a motion for reconsideration. We thus turn to the merits of Martin's subject-matter jurisdiction assertion.

2. Martin, a resident of Tennessee, contends that the Georgia trial court's attempt to modify his child support agreement, which originated in Tennessee, is a non-waivable defect in subject-matter jurisdiction because Georgia courts lack the authority to modify a child support agreement originating in another state's jurisdiction. Griffith, on the other hand, contends that the Georgia trial court did not modify a Tennessee child support order because there was no order in place at the time of the Georgia decision.

(a) *Facts*. The record shows the following facts relevant to this appeal.² The parties were never married but share a minor child who was born in 2021. On October 13, 2022, a Tennessee juvenile court entered an “Agreed Final Order Adopting Permanent Parenting Plan” for the minor child. Under the parenting plan, the parties shared custody, with Griffith having 245 days and Martin having 120 days. Martin was ordered to pay child support in the amount of \$188.00 per month, plus an additional \$25.00 per month toward arrearage repayment from the time the parties separated. Griffith subsequently moved to Georgia with the child in February 2023.

In May 2023, a Tennessee juvenile court signed an “Agreed Order to Terminate Current Support.” The order terminated Martin’s child support obligation, specifically noting that effective May 1, 2023, Martin was to pay \$0 per month in child support, but \$40.40 per month, or \$18.65 bi-weekly, in

² We note that many of the facts in this case are taken from the parties’ pleadings and uncertified documents from Tennessee courts attached to the parties’ pleadings. It is well settled that unauthenticated documents constitute inadmissible hearsay. See *Greater Ga. Life Ins. Co. v. Eason*, 292 Ga. App. 682, 688-89(4) (665 SE2d 725) (2008). Without a proper foundation, neither the trial court nor this Court can rely on the exhibit as admissible evidence that conclusively establishes the payment or nonpayment of child support. See *Durben v. Am. Materials*, 232 Ga. App. 750, 751-52 (503 SE2d 618) (1998) (trial court did not have authority to consider uncertified pleadings from another case attached as an exhibit to a summary judgment brief without any attempt to authenticate them or offer them into evidence).

arrears/retroactive child support. All payments were to be made to the Tennessee Child Support Receipting Unit. The order specifically stated:

Both parties appeared for an agreed order to terminate current support. Current support is to be terminated effective 05/01/2023. Arrears of \$2,423.79 were found as of 04/30/2023. An arrears repayment is set at \$40.40/[monthly] as parties are looking toward debt forgiveness. The State does not have a medical interest in this case. There are no further hearings in the case.

Martin included in the record an unauthenticated print-out purportedly from the Tennessee Department of Human Services indicating that he made total payments of \$2,319.33 from July 18, 2023, through December 10, 2025.

In April 2024, a Tennessee juvenile court found Martin in contempt when he failed to properly return the child to Georgia. That same order stated: “Jurisdiction is relinquished to Whitfield County, Georgia.”

In July 2024, Griffith filed a petition in the Superior Court of Whitfield County, Georgia, to domesticate the Tennessee judgment, modify the parenting plan, and set child support. Martin was served in Tennessee and filed a special appearance and answer. According to Griffith’s petition:

[Griffith] shows the Hamilton County Juvenile Court had previously entered a child support order, requiring [Martin] to pay child support in the amount of \$188.00 per month. ... Subsequently, the same [c]ourt entered an order eliminating current child support, but finding [Martin] in arrears on his child support in the amount of \$2,423.79, and ordering him to pay \$40.40 per month to repay that arrearage.

Griffith further alleged that

the previous order eliminating the child support obligation was agreed upon by her under duress and that the order is against the public policy of the State of Georgia. Therefore, [Griffith] requests that this [c]ourt set a child support amount appropriate under Georgia Law. This would [be] even more appropriate if the [c]ourt eliminates some of [Martin's] visitation time, as would be appropriate.

The Georgia court held a hearing to determine whether the Tennessee court “effectively relinquished its jurisdiction under the requirements of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)[.]” A transcript of that hearing is not included in the record on appeal. Following the hearing, the Georgia court held that it could modify the custody determination because the Tennessee court had relinquished jurisdiction to Whitfield County. The Georgia court did not address in

this jurisdictional order whether it had jurisdiction to modify or set a new child support award, it simply concluded that

the Hamilton County Tennessee Juvenile Court Order stating “jurisdiction is relinquished to Whitfield County, Georgia” is the express declination of that [c]ourt to exercise jurisdiction over this matter to modify a determination, and [therefore] federal law permits this [c]ourt to modify a determination of the Hamilton County Tennessee Juvenile Court’s prior orders concerning this child.

The parties subsequently consented to an interim order, which included making “a good faith effort to agree on a child support obligation within Georgia’s [c]hild [s]upport [g]uidelines” to begin in March 2025. Martin later filed a Domestic Relations Financial Affidavit, asserting that his gross monthly income was \$1,312.81. The court, however, issued a temporary order on May 27, 2025, finding that Martin was “artificially suppress[ing] his income through voluntar[ely] underemploy[ment]” and ordering Martin to pay \$624.00 per month in child support and an arrearage amount of \$1,399.50 within 120 days of the court order.

Following a subsequent hearing, the court entered a final order on July 9, 2025, finding again that Martin had artificially suppressed his income and “is physically and mentally fit to earn significantly more income than he has apparently been earning.”

After listing the parties' incomes, adjustments, and deviations, the trial court ordered Martin to pay \$585.00 per month in child support. The court further found that Martin owed \$2,547.10 in arrearage amounts as ordered during the pendency of the case, that he had no legal excuse for failing to pay the amounts ordered by the court, that his failure to pay was willful, and that he should be held in contempt. The court specifically noted in its order:

To purge himself of contempt, [Martin] shall repay such amount to [Griffith] at the rate of \$100.00 per month, in addition to that amount of child support currently ordered to be paid. Should [Martin] elect to make weekly payments on this arrearage, he shall pay \$22.99 per week.

On August 28, 2025, Martin filed a motion for modification of child support, claiming he had applied for 23 jobs and could not find one paying more than his current \$13.00 per hour as an Uber driver. Thereafter, on September 15, 2025, Griffith filed a motion for contempt, asserting that Martin had “willfully failed to abide by the previous [c]ourt [o]rder” and had no legal excuse for doing so. The trial court held a hearing in which evidence was presented and issued a contempt order on November 7, 2025, concluding that, despite its previous contempt finding and order to pay, “[i]nstead of paying down that arrearage, ... [Martin] ha[d] fallen further

behind on his child support obligation[,]” had only paid \$60.00 toward child support since its contempt finding on July 9, 2025, and owed \$4,235.34 in arrearage as of October 13, 2025.³ The court again concluded that Martin had shown no legal excuse for failing to pay the previously ordered child support and that his failure to pay was willful.

The court found Martin in contempt and ordered as follows:

[Martin] is hereby ordered to be incarcerated by the Sheriff of Whitfield County until such time as he shall pay \$500.00 towards his child support obligation through the Whitfield County Clerk of Court’s Office. He shall then pay an additional \$500.00 with[in] 30 days of his release from custody toward his child support obligation through the Whitfield County Clerk of Court’s Office. He shall also pay an additional \$100.00 per month, or \$22.99 per week, from that point forward until such time as his arrearage is paid in full. All of these payments shall be in addition to his current child support amount of \$585.00 per month or \$134.48 per week. All such child support payments shall be made through the Whitfield County Clerk of Court’s Office, together with any fees charged by said office.

³ Martin included in the record a number of documents purportedly showing payments of \$20.00 to Griffith through Whitfield County on July 25, 2025, August 22, 2025, and September 30, 2025. Additional documents show that he made payments of \$502.00 to Griffith through Whitfield County on October 14, 2025, and December 1, 2025.

The court order specifically stated:

In the event [Martin] fails to make the payments outlined ... above in a timely manner, this Order shall be self-executing, and upon presentation of a certified pay record or other sufficient proof that [Martin] has failed to make any of the required payments pursuant to this Order, an immediate Arrest Order will be issued requiring [Martin] to be immediately incarcerated in the common jail of Whitfield County, Georgia.

In addition, the court ordered Martin to reimburse Griffith \$1,000.00 in legal fees she incurred in bringing the contempt action within 90 days of October 13, 2025.

Martin asserts that he was incarcerated overnight following the trial court's hearing and before the November 7 contempt order and that he was released after paying \$502.00. Martin purportedly was arrested again on November 26, 2025, and remained in jail until his father paid \$502.00 on December 1, 2025.

On December 5, 2025, Martin filed an application for discretionary review from the November 7, 2025 domestic relations contempt order, raising three enumerations of error. He subsequently filed a supplemental application on December 16, 2025, raising an additional enumeration of error. This Court granted Martin's application

to thoroughly review the case with the complete record. *Martin v. Griffith*, Case No. A26D0242 (granted Dec. 29, 2025).

(b) *Martin's argument*. In his motion and amended motion for reconsideration, Martin contends that because he remained a Tennessee resident, the Georgia court's modification of the Tennessee child support order, which he claims remained active, violated OCGA §§ 19-11-110(b)⁴ and 19-11-170.

In 1994, ... the United States Congress enacted the Full Faith and Credit for Child Support Orders Act (FFCCSOA)[, 28 USC § 1738B]. That law establishes a general rule requiring a state to enforce the child support order of another state. The law further prohibits a state from modifying another state's child support order if that issuing state has "continuing, exclusive jurisdiction" over the matter. In 1997, Georgia codified the requirements of [the FFCCSOA].⁵ ... In 1996, Congress

⁴ We note that although Martin cites OCGA § 19-11-110 a number of times in his motion and amended motion for reconsideration, that statute specifically refers to personal, not subject-matter, jurisdiction. Personal jurisdiction may be waived, see, e.g., *Dyer v. Surratt*, 266 Ga. 220, 222(4) (466 SE2d 584) (1996); *In the Interest of K. M. L.*, 237 Ga. App. 662, 663(1) (516 SE2d 363) (1999), and Martin does not raise any issue regarding personal jurisdiction in his motion or amended motion for reconsideration. Accordingly, OCGA § 19-11-110 is inapplicable and will not be considered further.

⁵ OCGA § 19-6-26(a)(2) defines "[c]ontinuing, exclusive jurisdiction" as "the authority and jurisdiction of a court to enter or modify a judgment, decree, or order for the payment of child support[.]"

took further action to regulate interstate child custody orders by mandating the states to adopt the UIFSA[,] as a condition of receiving federal funds[.] ... The UIFSA was duly enacted by the General Assembly and is codified at sections 19-11-100 through 19-11-190 of the Georgia Code. The UIFSA was created to force uniformity in procedures and law with regard to intergovernmental establishment, enforcement, and modification of child support orders.

Ross v. Ross, 302 Ga. 39, 41-42(1) (805 SE2d 7) (2017) (citations and footnote omitted). “The ability of a trial court to adjudicate claims under the UIFSA involves questions regarding a court’s subject matter jurisdiction, and whether a trial court lacked subject matter jurisdiction is a question of law that we review de novo.” *Robinson v. London*, 379 Ga. App. 598, 601(1) (930 SE2d 143) (2026) (citation and punctuation omitted).

Under subsection (d) of the FFCCSOA, a court of a state that has made a child support order consistent with that section, has continuing, exclusive jurisdiction over the order if the State is the child’s State or the residence of any individual contestant unless the court of another state was authorized pursuant to [other] subsections ... of the FFCCSOA to make a modification of the order.

Early v. Early, 269 Ga. 415, 416 (499 SE2d 329) (1998) (punctuation omitted). “In keeping with federal law concerning full faith and credit for child support orders, the

UIFSA ... prohibits Georgia from modifying another state's child support order unless specific requirements are met divesting the foreign state of its continuing, exclusive jurisdiction." *Ross*, 302 Ga. at 42(1). A "modification" under the FFCCSOA, as adopted by Georgia, is defined as "a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to a child support order or foreign child support order." OCGA § 19-6-26(a)(4). See also 28 USC § 1738B(b)(8).

Only a handful of circumstances exist in which a Georgia court may modify another state's child support order: (1) All parties reside in Georgia and the child does not reside in the issuing state, see OCGA § 19-11-172(a); (2) neither of the parties nor the child reside in the issuing state, the petitioner seeking modification is a nonresident of Georgia, and the respondent is subject to personal jurisdiction in Georgia, see OCGA § 19-11-170(a)(1); or (3) Georgia "is the residence of the child or a party who is an individual, is subject to the personal jurisdiction of the tribunal of Georgia, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction[.]" OCGA § 19-11-170(a)(2). See *Ross*, 302 Ga. at

42-43(1). See also *Robinson*, 379 Ga. App. at 601(1). “If none of the above factual circumstances exist, then a Georgia tribunal cannot modify a foreign state’s child support order” because the issuing state retains its continuing, exclusive jurisdiction over the matter and Georgia does not have subject-matter jurisdiction. *Ross*, 302 Ga. at 43(1); *Robinson*, 379 Ga. App. at 602(1).

(c) *Griffith’s argument*. Griffith counters Martin’s subject-matter jurisdiction argument by asserting that Martin’s Tennessee child support obligation had been terminated, and the Georgia court’s July 9, 2025 final order merely “established” a current child support amount where one did not exist; the Georgia court did not “modify” an existing Tennessee child support obligation. To support her claim, Griffith points to the May 2023 Tennessee order terminating Martin’s child support obligation “effective 05/01/2023.” She further identifies her petition as one to establish, not modify, child support. And she points out that the July 9, 2025 final order by the Georgia court identifies itself as an “initial action” regarding child support, while the court-ordered parenting plan indicates that it “modifies an existing” parenting plan dated October 12, 2022 in Tennessee. Griffith notes that the

Georgia court's final order and exhibits were "[a]pproved as to form by" Martin's attorney.

The problem with Griffith's argument is two-fold. First, as previously noted, a "modification" under Georgia law is broadly defined as "a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to a child support order or foreign child support order." OCGA § 19-6-26(a)(4). Under this definition, both changes to the dollar amount and changes to the duration, or time period, of a support obligation would qualify as modifications. See generally OCGA §§ 19-11-170(c) ("A tribunal in Georgia may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support."); 19-11-170(d) ("In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of Georgia.").

In fact, in *Thomas v. Whaley*, 208 Ga. App. 362, 362-64(1) (430 SE2d 655) (1993), this Court held that evidence established a change in the husband's financial condition warranting modification of a Virginia child support order and an increase in child support from zero to \$750.00 per month. This Court treated the zero-dollar Virginia award as a modifiable child support order, not as the absence of an order, and applied the standard modification analysis based on changed financial circumstances. *Id.* Although *Thomas* was decided prior to Georgia's adoption of the FFCCSOA and the UIFSA and subject-matter jurisdiction was not at issue in the case, the decision confirms that a zero-dollar child support award from another state is still a child support order subject to modification under Georgia law.⁶ The Georgia court in this

⁶ The "persuasive authority" cited by Griffith in support of her argument that the Georgia court order did not "modify" the Tennessee child support order because that order had been terminated is inapplicable. In *State of New Mexico, ex. rel. Children, Youth and Families Dep't v. Andree G.*, 174 P3d 531, 535 (N.M. 2007), the court specifically noted that a party in New Mexico "may not collaterally attack a final judgment on subject matter jurisdiction grounds when the party had the opportunity to challenge subject matter jurisdiction during the original action." This principle is directly contrary to Georgia's law that a court's lack of subject-matter jurisdiction "cannot be waived and may be raised at *any time* either in the trial court, in a collateral attack on a judgment, or in an appeal." *Abushmais*, 282 Ga. at 622(3) (emphasis added). The New Mexico case also concluded that the state court did not "modify" the terms of the district court's preexisting order "because the orders entered by the two tribunals address[ed] independent support obligations owed by [the f]ather to different parties, and thus [were] not competing or conflicting orders[;]" one

case clearly changed the amount and duration of the Tennessee child support award, thus modifying it. While the Tennessee court's decision to accept the parties' agreement and reduce Martin's child support award to zero is a decision a Georgia court might not have made, that decision nonetheless is a judgment of a sister state's court and must be enforced unless and until Griffith can demonstrate that Tennessee no longer has continuing, exclusive jurisdiction over the matter.

More importantly, none of the statutory factual circumstances exist permitting the Georgia court to modify the Tennessee child support award. The record is clear, and Griffith does not dispute, that Martin resides in Tennessee. Therefore, the requirements of OCGA §§ 19-11-170(a)(1) and 19-11-172(a) were not satisfied to

provided future child support to the mother and the other past child support during the time the child was in the department's custody, a totally different scenario than that presented in this case. *Andree G.*, 174 P3d at 536, 539.

OCS/Pappas v. O'Brien, 67 A3d 916 (Vt. 2013), is also plainly distinguishable. In that case, a Georgia order explicitly stated that child support would cease if custody was changed by a court of competent jurisdiction. *Id.* at 929(I)(B). Custody from the mother to the father subsequently was changed by an Oklahoma court of competent jurisdiction, and the father's support obligation expired. *Id.* With the change in custody to the father and the father's support obligation expired, the Vermont court noted that the Oklahoma court had jurisdiction to address the father's new and independent request for child support. *Id.* Under the circumstances, the Oklahoma support order was a new and independent order rather than a modification of Georgia's expired order. *Id.* at 931(I)(B). Again, that is not the situation presented in the case before us.

confer jurisdiction to modify the Tennessee court's child support order. Additionally, the requirements of OCGA § 19-11-170(a)(2) were not satisfied because Martin, the obligor, resides in Tennessee and did not file a consent in the Tennessee tribunal for a Georgia court to modify the child support order and assume continuing, exclusive jurisdiction. Griffith's argument that the agreed upon termination of child support in Tennessee was procured under duress notwithstanding, the Georgia trial court did not have subject-matter jurisdiction to modify the Tennessee child support order because Tennessee retained its continuing, exclusive jurisdiction over the matter absent the factual circumstances delineated in OCGA §§ 19-11-170 and 19-11-172. *Ross*, 302 Ga. at 43(1); *Robinson*, 379 Ga. App. at 602(1).

Griffith further argues that Martin is precluded and estopped from attacking the Georgia court's final order. Indeed, our Supreme Court has noted that, "[u]nder limited circumstances, the equitable defenses of laches and estoppel may prevent a party from complaining of a court's lack of subject-matter jurisdiction." *Abushmais*, 282 Ga. at 622(3). To date, however, it appears that such circumstances have been confined to cases involving the lack of subject-matter jurisdiction of divorce decrees.⁷

⁷ "[I]n divorce cases there is a special rule in support of the finality of divorce decrees which precludes the parties from attacking a final divorce decree even on

See *Amerson v. Vandiver*, 285 Ga. 49, 50 (673 SE2d 850) (2009) (“The stability of the family and of society demands that one who intends to attack an apparently valid decree of divorce should proceed with the utmost promptness.”); *Howington v. Howington*, 281 Ga. 242, 243(1) (637 SE2d 389) (2006) (“[L]aches can be a defense to an action attacking the validity of a divorce decree.”). Griffith does not point to any case outside this context in which the equitable defenses of laches or estoppel successfully overcame a lack of subject-matter jurisdiction.⁸ Outside this narrow

subject-matter jurisdiction grounds. Whether this is called waiver or estoppel or something else it is a rule which precludes attacks on a decree. It doesn’t apply to every case but it applies to those cases where the parties affirmatively conceded the jurisdiction of the court and participated in the action.” 1 Georgia Civil Practice § 3.06(2)(a).

⁸ The cases cited by Griffith all address laches in the context of divorce decrees and/or resulting consents to provide support that were incorporated in the divorce decree. See *Amerson*, 285 Ga. at 50-51 (complaining party specifically invoked the jurisdiction of the court for the purpose of obtaining a divorce, consented to the court’s incorporation of a settlement agreement, and failed to file a motion to set aside on jurisdictional grounds for four years); *Brannon v. Brannon*, 261 Ga. 565, 566 (407 SE2d 748) (1991) (complaining party filed divorce complaint, signed agreement to pay child support for grandchild which was incorporated into the decree, and paid such child support for 18 months before attacking the decree as void); *Doke v. Doke*, 248 Ga. 514, 515(2) (284 SE2d 419) (1981) (complaining party entered a settlement agreement that was incorporated into the divorce decree and later attempted to avoid contempt by arguing the divorce decree was void for lack of subject-matter jurisdiction); *Smith v. Smith*, 243 Ga. 525, 526(1) (255 SE2d 46) (1979) (complaining party entered into an agreement settling all issues, which the trial court adopted as the

exception, “[j]urisdiction of the subject-matter of a suit cannot be conferred by agreement or consent, or be waived or based on an estoppel of a party to deny that it exists.” *Langston v. Nash*, 192 Ga. 427, 429(2) (15 SE2d 481) (1941) (punctuation omitted). The basis of subsequent orders or proceedings on a judgment that is void for want of subject-matter jurisdiction will not “infuse [the void judgment] with a validity which it lacks.” *Id.* at 430(2) (holding that where a judgment for permanent alimony was void because of lack of jurisdiction of the subject-matter, “the fact that the plaintiff brought a petition to modify the judgment, in which he was unsuccessful, and where he filed no exception, will not create such a ratification of the judgment as will make valid that which was void. And the fact that the former husband, without excepting to the original judgment, has paid alimony in pursuance of the judgment for several years can not affect the result”) (punctuation omitted).

In addition, “[t]o prevail on a claim of laches, ... a party must prove some harm or prejudice caused by the delay.” *Howington*, 281 Ga. at 243(1). Even assuming all of the facts alleged by Griffith in her response to Martin’s motion for reconsideration are true, there is no allegation or evidence in the record demonstrating that she was

final judgment of divorce in the case, and then attempted to assert that the court lacked subject-matter jurisdiction to enter the divorce decree).

harmful by the delay, especially considering that the Tennessee court had terminated Martin's child support obligation.

Finally, Griffith argues that Martin's failure to provide this court with a copy of the final hearing transcript necessarily requires this Court to assume that sufficient evidence supported the Georgia court's decision. While this may be true as to factual issues, we reject this conclusion with respect to the subject-matter jurisdiction argument at issue in this case. Here, Martin collaterally attacks the final order based on a lack of subject-matter jurisdiction, asserting the Georgia child support award is void on its face. Under such circumstances, a transcript of the evidence is not necessary for this Court to determine whether the Georgia court possessed subject-matter jurisdiction as delineated in OCGA §§ 19-11-170 and 19-11-172. The case cited by Griffith to support her argument involves an attack on evidence sufficiency, not an attack on a judgment that is void on its face. See *Lawing v. Erwin*, 251 Ga. 134, 135 (303 SE2d 444) (1983) (presuming the evidence was sufficient to support the trial court's judgment in a case where the court specifically stated that the party failing to file a transcript of the evidence did not contend that the trial court lacked jurisdiction of the person or subject matter or that it was without authority to enter the order). The

record before us shows the Georgia trial court's lack of subject-matter jurisdiction, and Griffith offers no suggestion of how any evidence not before this Court would change our analysis. Griffith's argument in this regard lacks merit.

(d) *Conclusion*. “[A] Georgia tribunal’s subject matter jurisdiction under the UIFSA is limited to the conditions specified in OCGA §§ 19-11-170 and 19-11-172, and the failure to meet the conditions specified in those statutes deprives a Georgia court of subject matter jurisdiction.” *Robinson*, 379 Ga. App. at 602(1). “Consequently, because [Martin] resides in [Tennessee] and has not filed a consent in the [Tennessee] tribunal for a Georgia court to modify the child support order and assume jurisdiction, the trial court ... lacked subject matter jurisdiction to modify the [Tennessee] tribunal’s child support order.” *Id.* See also *Ross*, 302 Ga. at 43(1) (holding that the Georgia trial court lacked subject matter jurisdiction under the UIFSA over a petition to modify a Connecticut child support order because the husband was a resident of Connecticut and did not file written consent for the Georgia tribunal to modify the order and assume jurisdiction). Although the Tennessee court relinquished jurisdiction to the Georgia tribunal, this relinquishment does not confer subject-matter jurisdiction over the child support award. Unlike child support orders, child custody

orders may be modified if, among other reasons, “[t]he court of the other state determines it no longer has exclusive, continuing jurisdiction under Code Section 19-9-62 or that a court of this state would be a more convenient forum under Code Section 19-9-67[.]” OCGA § 19-9-63(1). Such facts do not permit a Georgia court to modify another State’s child support order without meeting the requirements of OCGA §§ 19-11-170 and 19-11-172. See *Early*, 269 Ga. at 416-17 (recognizing the jurisdictional distinctions between custody issues under the UCCJA and support issues under the FFCCSOA, as well as the absence of any language in the latter statute providing for discretion in the state with continuing, exclusive jurisdiction over a support order to decline to exercise jurisdiction over the subject).

Accordingly, because we conclude that the Georgia trial court lacked subject-matter jurisdiction to modify the Tennessee child support award, we reverse the trial court’s contempt finding and remand the case with direction that the trial court vacate the child support award in its July 9, 2025 final order for lack of subject-matter jurisdiction at this juncture in the case.

Judgment reversed and remanded. Barnes, P. J., and Markle, J., concur.