

Court of Appeals of the State of Georgia

ATLANTA, September 02, 2026

The Court of Appeals hereby passes the following order:

A26A1232. JJ FISH PRYOR ROAD, INC. v. WRIGHT.

After the trial court denied its motion to set aside a default judgment and open default, JJ Fish Pryor Road, Inc., filed an application for discretionary appeal, which this Court granted. After careful review of the entire record in this case, we conclude that the application for discretionary appeal was improvidently granted.

The record shows that the trial court entered a default judgment against JJ Fish and Yash Enterprises, Inc., on September 3, 2024. On July 1, 2025, Yash Enterprises filed a motion to set aside the default judgment under OCGA § 9-11-60, and on July 25, 2025, JJ Fish moved to set aside the default judgment under OCGA § 9-11-60 and open default under OCGA § 9-11-55.

On August 6, 2025, the trial court entered a consent order to set aside the default judgment against Yash Enterprises. On October 28, 2025, the trial court denied JJ Fish's motion to set aside the default judgment and open default. In its October 28, 2025 order, the trial court only ruled on JJ Fish's motion to set aside under OCGA § 9-11-60, finding that "because [JJ Fish] has not shown that the default judgment should be set aside, the [c]ourt does not reach [JJ Fish's] request to open its default pursuant to OCGA § 9-11-55(b)." JJ Fish then moved for a certificate of immediate review, which the trial court granted. Rather than filing an application for interlocutory appeal within ten days after the certificate was granted, as required by OCGA § 5-6-34(b), JJ Fish filed an application for discretionary appeal nineteen days after obtaining the certificate of immediate review.

"In a case involving multiple parties or multiple claims, a decision adjudicating

fewer than all the claims or the rights and liabilities of [fewer] than all the parties is not a final judgment.” *Johnson v. Hosp. Corp. of Am.*, 192 Ga. App. 628, 629 (385 SE2d 731) (1989) (punctuation omitted). See also OCGA § 5-6-34(a)(1) (defining a “final judgment” as one “where the case is no longer pending in the court below”); OCGA § 9-11-54(b) (“In the absence of [an express determination that there is no just reason for delay and upon an express direction for the entry of judgment], any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.”)

As of August 6, 2025, when the trial court set aside the default judgment against Yash Enterprises, the judgment remaining against JJ Fish was not a “final” judgment. See *Travelers Indemnity Co. of Rhode Island v. Schenden*, 182 Ga. App. 735, 736 (356 SE2d 761) (1987). See also *Sage Atlanta Props., Ltd. v. Diner Group of Ga.*, 360 Ga. App. 817, 822-23(3) (861 SE2d 638) (2021).¹

As JJ Fish correctly recognized in its motion for certificate of immediate review, while the denial of a motion to set aside a judgment pursuant to OCGA § 9-11-60 is ordinarily subject to appellate review by discretionary application pursuant to OCGA § 5-6-35(a)(8), JJ Fish was required to file an application for interlocutory appeal because the case remained pending in the court below. See *Bryan Cave Leighton Paisner, LLP v. Gebo Law, LLC*, 374 Ga. App. 442, 442-43 (912 SE2d 346) (2025). Instead, JJ Fish filed an application for discretionary appeal. JJ Fish’s filing of an application for discretionary appeal does not excuse it from complying with the interlocutory appeal procedures set forth in OCGA § 5-6-34(b). See *Bailey v. Bailey*, 266 Ga. 832, 833 (471 SE2d 213) (1996) (holding that where a party is appealing an

¹ Upon return of the case to the trial court, in light of the fact that the judgment is not final, there is no procedural bar to the trial court analyzing the merits of JJ Fish’s motion to open default under OCGA § 9-11-55.

interlocutory order, the filing of an application for discretionary appeal is insufficient to confer jurisdiction on the appellate court). Thus, JJ Fish's failure to follow the required interlocutory appeal procedures deprives us of jurisdiction, and this appeal is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/02/2026

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.