# Court of Appeals
# of the State of Georgia

ATLANTA, November 04, 2026

*The Court of Appeals hereby passes the following order:*

**A27O0014. LEON FRANSCECO BENJAMIN v. CLERK OF THE SUPERIOR COURT OF CLAYTON COUNTY, GEORGIA.**

Leon Fransceco Benjamin filed this original petition for mandamus in the Supreme Court seeking to compel the clerk of Superior Court of Clayton County to perform certain ministerial duties related to his recently filed motion to set aside a final divorce decree. The Supreme Court transferred the matter to this Court. Case No. S27O0065 (Sept. 9, 2026). For reasons that follow, the petition is subject to dismissal.

Benjamin has not followed the proper procedure for invoking this Court's original mandamus jurisdiction.

> Generally, the superior courts of this state have the power, in proper cases, to issue process in the nature of mandamus, prohibition, specific performance, quo warranto, and injunction, and hence the need to resort to the appellate courts for such relief by petition filed in the appellate courts will be extremely rare.

*Brown v. Johnson*, 251 Ga. 436, 436 (306 SE2d 655) (1983), disapproved in part on other grounds, *Arnold v. Alexander*, 321 Ga. 330, 336(1) (914 SE2d 311) (2025). See also Ga. Const. of 1983, Art. VI, Sec. I, Par. IV. As the Supreme Court of Georgia has made clear, an appellate court's authority to issue such writs "is connected only to such powers as necessary in aid of its jurisdiction or to protect or effectuate its judgments. It does not grant jurisdiction to [the appellate court] to issue process as an original matter wholly unconnected to its appellate jurisdiction." *Arnold*, 321 Ga. at

334(1) (quotation marks omitted). Thus, except in the rarest of cases, the procedure to be followed before seeking to invoke this Court's original mandamus jurisdiction is to file the petition in the appropriate lower court first. See *Graham v. Cavender*, 252 Ga. 123, 123 (311 SE2d 832) (1984), disapproved in part on other grounds, *Arnold*, 321 Ga. at 336(1) & n.7; *Expedia, Inc. v. City of Columbus*, 305 Ga. App. 450, 455(2)(b) (699 SE2d 600) (2010), disapproved in part on other grounds, *Arnold*, 321 Ga. at 336(1) & n.7.

There is no suggestion here that Benjamin first attempted to file his mandamus petition in superior court.[1]

Accordingly, Benjamin's petition for a writ of mandamus is hereby DISMISSED.

*Court of Appeals of the State of Georgia*
*Clerk's Office, Atlanta,* 11/04/2026

*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 Cosby Smith , *Clerk.*

[1] We understand that Benjamin argues that he cannot pursue mandamus relief in the trial court because he does not know, and cannot find out, who the assigned judge is in the underlying case. Assuming arguendo that this is true, however, mandamus actions are independent actions and his current petition is against the clerk of court. See *Gay v. Owens*, 292 Ga. 480, 483 (738 SE2d 614) (2013), disapproved in part on other grounds, *Arnold*, 321 Ga. at 336(1) & n.7.