

Court of Appeals of the State of Georgia

ATLANTA, August 19, 2026

The Court of Appeals hereby passes the following order:

A27A0053. JOHN MILLER v. THE STATE.

In 2006, John Miller pleaded guilty to rape and other sexual offenses. On April 21, 2026, Miller filed in the trial court a motion for an out-of-time appeal and to withdraw his guilty plea, and he copied the Supreme Court of Georgia. The Supreme Court construed Miller’s filing as a “purported notice of appeal” and, because it could ascertain no basis for its jurisdiction, it transferred the matter to this Court. See Case No. S26A1492 (June 30, 2026). We, however, lack jurisdiction.

As a general rule, a notice of appeal must be filed within 30 days of the order sought to be appealed. 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. *Henderson v. State*, 265 Ga. 317, 317(1) (454 SE2d 458) (1995). Here, the record does not contain any order or judgment of the trial court filed within the 30 days preceding Miller’s “purported notice of appeal.”

Furthermore, despite Miller’s characterization of his April 2026 filing as an “appeal,” he is, in substance, seeking an out-of-time appeal and to withdraw his guilty plea based on his claims that his plea was involuntary and his sentence is void — issues that the trial court or a habeas court must address in the first instance. See OCGA § 5-6-39.1(a)(2) (providing that the trial court judge has jurisdiction to consider a motion for leave to file an out-of-time appeal); *Hudson v. State*, 334 Ga. App. 166, 167(1) (778 SE2d 406) (2015) (explaining that a “*sentencing court* retains jurisdiction to correct a void sentence at any time” (quotation marks omitted; emphasis added)). Thus, at this juncture, this Court has nothing to review. *Amica v.*

State, 307 Ga. App. 276, 282(2) (704 SE2d 831) (2010) (“This Court is an appellate court for the correction of errors of law made by the trial court, which have as their bases specific rulings made by the trial court.”) (citation modified).

Accordingly, we lack jurisdiction over this direct appeal, which is hereby DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 08/19/2026

*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.