

Court of Appeals of the State of Georgia

ATLANTA, August 14, 2026

The Court of Appeals hereby passes the following order:

A27A0105. BOBBY SULLENS v. THE STATE.

In 2007, Bobby Sullens was convicted of aggravated child molestation following a jury trial. Sullens appealed following the denial of his motion for new trial, and this Court affirmed his conviction in an unpublished opinion. Case No. A10A0349 (May 27, 2010). In June 2026, Sullens filed a motion for leave to file an out-of-time notice of appeal. The trial court denied the motion, and Sullens filed this appeal. We lack jurisdiction.

In *Cook v. State*, 313 Ga. 471, 506(5) (870 SE2d 758) (2022), the Supreme Court of Georgia determined that a trial court lacks authority to grant an out-of-time appeal, and that any remedy involving an out-of-time appeal must be sought in habeas corpus. In response, the legislature enacted OCGA § 5-6-39.1, which became effective on May 14, 2025. This statute allows for defendants to seek out-of-time relief if (a) the defendant moves for leave to file an out-of-time motion for new trial or notice of appeal within 100 days from the expiration of the time period for the filing of such motion or notice, or (b) the defendant had an out-of-time motion for new trial or appeal dismissed under *Cook* and the renewed motion for out-of-time motion for new trial or notice of appeal is filed by June 30, 2026. OCGA § 5-6-39.1.

The provisions of OCGA § 5-6-39.1 do not apply to Sullens, as he did not move for leave to file an out-of-time notice of appeal within 100 days from the expiration of the time period for the filing of such notice, nor did he have an out-of-time motion for new trial or appeal dismissed under *Cook*. Moreover, Sullens has already had a direct appeal of his conviction, and therefore he is not entitled to a second such appeal. See

Jackson v. State, 273 Ga. 320, 320 (540 SE2d 612) (2001). Accordingly, this appeal is hereby DISMISSED.



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Clerk's Office, Atlanta, 08/14/2026

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.