

Court of Appeals of the State of Georgia

ATLANTA, August 19, 2026

The Court of Appeals hereby passes the following order:

A27A0153. FERNANDO BENNEFIELD v. THE STATE.

On September 15, 2025, Fernando Bennefield¹ pleaded guilty to first-degree burglary and second-degree criminal damage to property and was sentenced to four years' imprisonment. On October 20, 2025, Bennefield filed a pro se motion to withdraw his guilty pleas, which the trial court denied on March 10, 2026. On April 27, 2026, still proceeding pro se, Bennefield filed a notice of appeal, seeking appellate review of the judgment of conviction and sentence. We, however, lack jurisdiction for two reasons.

First, effective May 14, 2025, any “direct appeal[]” from a guilty plea must be initiated by filing an application for discretionary review. OCGA § 5-6-35(a)(5.3), (b); Ga. L. 2025, p. 621, §§ 1-2, 4-2. See *Clark v. State*, 378 Ga. App. 111, 111 n.1 (924 SE2d 346) (2025). Compliance with the discretionary appeals procedure is jurisdictional. *Hester v. State*, 378 Ga. App. 121, 121 (924 SE2d 457) (2025). Consequently, Bennefield’s failure to comply with the discretionary review procedure deprives us of jurisdiction over this direct appeal.

Second, even if Bennefield had a right of direct appeal here, this appeal is untimely. A notice of appeal must be filed within 30 days of entry of the judgment or trial court order sought to be appealed. OCGA § 5-6-38(a). The proper and timely filing of a notice of appeal is an absolute requirement to confer appellate jurisdiction on this Court. *Kelly v. State*, 311 Ga. 827, 828 (860 SE2d 740) (2021). Bennefield’s

¹ Bennefield’s name is also spelled “Vernando Benefield” in the record.

notice of appeal was filed over 200 days after entry of the judgment of conviction and sentence and is, therefore, untimely. Moreover, to the extent that Bennefield's notice of appeal could be construed as seeking review of the denial of his motion to withdraw his guilty pleas, it was also untimely filed 48 days after the entry of that order.

For those reasons, this appeal is hereby DISMISSED for lack of jurisdiction.



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.