

SUPREME COURT OF GEORGIA

Atlanta November 16, 2004

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that Supreme Court Rule 40 be amended to provide for the exhaustion of remedies in criminal cases. The new rule as amended shall read as follows:

Rule 40. Standard for Granting. A review on certiorari is not a right. A petition for the writ will be granted only in cases of great concern, gravity, or importance to the public. In all appeals from criminal convictions, a litigant shall not be required to petition for rehearing and certiorari following an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. When the claim has been presented to the Court of Appeals, and relief has been denied, the litigant shall be deemed to have exhausted all available state remedies.

Subject to the foregoing, certiorari generally will not be granted:

- (1) To review the sufficiency of evidence; or
- (2) Where the Court of Appeals has affirmed the denial of a motion to dismiss, the denial of a motion for judgment on the pleadings, or the denial of a motion for summary judgment.

All the Justices concur, except Hunstein and Carley, JJ., who dissent.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto
affixed the day and year last above written.

, Clerk