



SUPREME COURT OF GEORGIA
Case Nos. S17I1986, S18A0018

Atlanta: September 7, 2017

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

DUSTIN DREW PUTNAL v. THE STATE.

Putnal's application for interlocutory appeal, Case No. S17I1986, and his purported direct appeal, Case No. S18A0018, both challenge the same July 7, 2017 order of the trial court. Because the July 7 order is not a final judgment and does not meet the conditions of the collateral order doctrine, this Court would ordinarily dismiss the direct appeal. See Fulton County v. State, 282 Ga. 570, 570 (1) (651 SE2d 679) (2007); Waldrip v. Head, 272 Ga. 572, 574 (1) (532 SE2d 380) (2000). However, after consideration of Putnal's application for interlocutory appeal in which he followed the statutorily mandated procedures of OCGA § 5-6-34 (b), it is hereby granted. Therefore, Putnal's prematurely filed notice of appeal in Case No. S18A0018 is deemed timely. See Wannamaker v. Carr, 257 Ga. 634, 635 (1) (362 SE2d 53) (1987) (recognizing that, in the context of a discretionary appeal, a prematurely filed notice of appeal ripens upon the appellate court's granting of the application for appeal). Cf. Islamkhan v. Khan, 299 Ga. 548, 551 (2) (787 SE2d 731) (2016) (holding that, in the context of an interlocutory appeal, the filing of a notice of appeal without first complying with OCGA § 5-6-34 (b) is a nullity and incapable of activating this Court's appellate jurisdiction). Putnal's granted application will proceed as an appeal under Case No. S18A0018, which was docketed in this Court on August 9, 2017.

We note that Putnal's brief has already been filed, and, absent an extension of time for filing, the State's brief will be due based on the August 9, 2017 docketing date. See Supreme Court Rules 10 and 12. We also note that in his brief Putnal has addressed the issue that the Court is particularly concerned with, to wit: whether the trial court erred in denying Putnal's motion to proceed ex parte and under seal with regard to matters pertaining to his expert mental health investigation. However, Putnal may wish to file a supplemental

brief, see Supreme Court Rule 24, as the Court also requests that the parties address Zant v. Brantley, 261 Ga. 817, 817, 818-819 (2) (411 SE2d 869) (1992).

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I 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