

Fulton County Superior Court
FILEDAC
Date: 6/9/2017 11:46:50 AM
Cathelene Robinson, Clerk

Ex - 1

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

AKASH DIXIT,

Petitioner,

v.

JUDGE CHRISTOPHER
BRASHER,

Respondent.

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CIVIL ACTION FILE NO.
NO. 2017CV288150

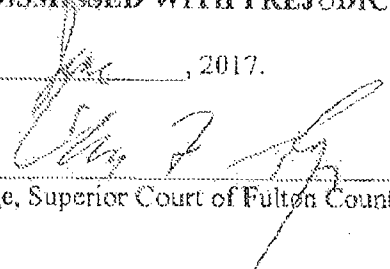
FINAL ORDER

On March 30, 2017, Petitioner filed a Petition for Writ of Mandamus asking the Court to issue a writ of mandamus ordering Judge Christopher Brasher to: 1) dismiss his divorce case for lack of jurisdiction; 2) recuse himself; and 3) set aside the divorce decree. Petition, ¶ 27 (second). Judge Brasher filed an Answer and a Motion to Dismiss on May 3, 2017.

The law is clearly established that a litigant may not challenge a judge's decisions by filing a petition for writ of mandamus against the judge. *Clark v. Hunstein*, 291 Ga. 646, 649, n. 3 (2012) (citing *Banks v. Benham*, 270 Ga. 91 (1990)). Petitioner's right to appeal any of Judge Brasher's decisions constitutes an adequate remedy that bars him from seeking mandamus relief. *Watson v. Matthews*, 286 Ga. 784, 786 (2010).

For the above-stated reasons, the Petition for Writ of Mandamus is subject to dismissal as a matter of law. Judge Brasher's Motion to Dismiss is **GRANTED** and the Petition for Writ of Mandamus is **DISMISSED WITH PREJUDICE**.

So **ORDERED** this 7 day of June, 2017.



Judge, Superior Court of Fulton County

Submitted by:
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Court of Appeals of the State of Georgia

ATLANTA, October 18, 2017

The Court of Appeals hereby passes the following order:

A18A0280. AKASH DIXIT v. CHRISTOPHER BRASHER, JUDGE.

Akash Dixit filed a petition for mandamus against Judge Christopher Brasher, who was presiding over his divorce case. In the petition, Dixit asked the trial court to order Judge Brasher to dismiss the divorce case for lack of jurisdiction, recuse himself, and set aside the divorce decree. The trial court dismissed the mandamus petition, ruling that “[Dixit’s] right to appeal any of Judge Brasher’s decisions constitutes an adequate remedy that bars him from seeking mandamus relief.”¹ Dixit appealed that ruling directly to the Supreme Court, which transferred the case here.² We, however, lack jurisdiction because Dixit was required to file a discretionary application.

The Supreme Court has held that “the underlying subject matter generally controls over the relief sought in determining the proper procedure to follow to appeal. A party should review the discretionary application statute to see if it covers the underlying subject matter of the appeal. If it does, then the party must file an

¹ Dixit filed a direct appeal from the divorce decree. We dismissed the appeal as interlocutory because Dixit’s motion for new trial remained pending below. See Case No. A17A2036, decided July 31, 2017. After the trial court denied Dixit’s motion for new trial, he filed an application for discretionary appeal, which we dismissed as interlocutory because a motion for attorney fees remained pending below. See Case No. A18D0064, decided September 18, 2017.

² This Court has subject matter jurisdiction over cases involving extraordinary remedies in which the notice of appeal was filed on or after January 1, 2017. OCGA § 15-3-3.1 (a) (4).

application for appeal as provided under OCGA § 5-6-35.” *Rebich v. Miles*, 264 Ga. 467, 469 (448 SE2d 192) (1994). OCGA § 5-6-35 (a) (2) provides that appeals from orders in divorce cases must be taken by application for discretionary review. “Where the underlying subject matter, i.e., the issues sought to be appealed, clearly arises from or is ancillary to divorce proceedings . . . the appeal is within the ambit of this statute.” *Russo v. Manning*, 252 Ga. 155, 155 (312 SE2d 319) (1984).

Here, Dixit’s objective in the mandamus action was “to obtain relief from the orders entered in his divorce case”; thus “the underlying subject matter is divorce.” *Self v. Bayneum*, 265 Ga. 14, 15 (453 SE2d 27) (1995). Dixit “cannot avoid the discretionary review procedure by challenging the trial court’s rulings via writ of [mandamus].” *Id.*; see also *Walker v. Estate of Mays*, 279 Ga. 652 (619 SE2d 679) (2005); *Stone v. Stone*, 295 Ga. App. 783, 783 n.1 (673 SE2d 283) (2009). Because Dixit failed to follow the discretionary review procedure, we lack jurisdiction to consider this direct appeal, which is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 10/18/2017

*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.*

Stephen E. Castle

, Clerk.

Ex-3

Court of Appeals of the State of Georgia

ATLANTA, December 01, 2017

The Court of Appeals hereby passes the following order:

A18A0280. AKASH DIXIT v. CHRISTOPHER BRASHER, JUDGE.

Akash Dixit has filed a motion for reconsideration of this Court's dismissal of his direct appeal from the trial court's dismissal of his petition for mandamus against Judge Christopher Brasher. Upon consideration of Dixit's motion, it is ordered that it be hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/01/2017

*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.*

Stephen E. Carlton

, Clerk.

EX-4



SUPREME COURT OF GEORGIA
Case No. S18C0631

Atlanta, June 18, 2018

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

AKASH DIXIT v. CHRISTOPHER BRASHER, JUDGE

The Supreme Court today denied the petition for certiorari in this case. All the Justices concur.

Court of Appeals Case No. A18A0280

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 herein affixed the day and year last above written.

Theresa A. Barnes

Clerk



SUPREME COURT OF GEORGIA
Case No. S18C0631

Ex-5

Atlanta, July 12, 2018

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

AKASH DIXIT v. CHRISTOPHER BRASHER, JUDGE

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

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.

A handwritten signature in dark ink, appearing to read "Thavis A. Barnes". The signature is fluid and cursive.

, Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**