

# APPENDIX A-1 thru A-4

A-2



**SUPREME COURT OF GEORGIA**

Case No. S19A0662

Atlanta February 18, 2019

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**LESTER JAMES SMITH, JR. v. THE STATE**

Appellant was convicted of, among other things, malice murder and five counts of felony fleeing and eluding; he was sentenced to life imprisonment plus consecutive five-year terms for each count of attempting to elude. This Court affirmed his convictions in Smith v. State, 290 Ga. 768 (723 SE2d 915) (2012). Appellant filed below a “Motion to Modify/ Reduce Sentence,” in which he argued that his sentences for fleeing and eluding involved a single incident and that, as a matter of law, they should have merged. The trial court denied his motion, and appellant filed both a timely discretionary application to appeal and this direct appeal. However, as this Court stated in the order dismissing appellant’s discretionary application, see S18D0119 (dismissed Sept. 28, 2017), a claim seeking merger is not a valid void sentence claim, see Williams v. State, 287 Ga. 192, 194 (695 SE2d 244) (2010), and, even so, appellant already raised this argument on direct appeal and this Court rejected it, see Smith, 290 Ga. at 774, and “[h]e [was] not entitled to another bite at the apple by way of a second appeal,” Jackson v. State, 273 Ga. 320, 320 (540 SE2d 612) (2001). Accordingly, the Court dismisses this appeal.

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.

*Suz C. Fulton*, Chief Deputy Clerk