

# Court of Appeals of the State of Georgia

ATLANTA, April 19, 2010

*The Court of Appeals hereby passes the following order:*

## **A10A1505. WALKER v. CHEROKEE COUNTY, GEORGIA et al.**

Kerry Craig Walker sued Cherokee County, Georgia, Sheriff Roger Garrison, Preston Peavy, the Cherokee County Sheriff's Department and others asserting a "demand for injunctory [sic] relief of 20 million dollars" arising out of his alleged false arrest and malicious prosecution, and the violation of his civil rights. He also sought to expunge the records pertaining to his arrest. Defendants Cherokee County, Garrison, Peavy, and the Sheriff's Department moved for a judgment on the pleadings pursuant to OCGA § 9-11-12 (c) on the grounds that the statute of limitations had expired.<sup>1</sup> The trial court granted the motion as to defendants Cherokee County, Garrison, and Peavy. The trial court granted judgment on the pleadings to the Sheriff's Department as to Walker's tort and damage claims, but denied the motion as to the expungement claim.

In a case involving multiple parties or multiple claims, a decision adjudicating fewer than all the claims or the rights and liabilities of less than all the parties is not a final judgment. In such circumstances, there must be an express determination under OCGA § 9-11-54 (b) or there must be compliance with the interlocutory appeal requirements of OCGA § 5-6-34 (b). Where neither of these code sections are followed, the appeal is premature and must be dismissed.

(Citations and punctuation omitted.) *Johnson v. Hosp. Corp. of America*, 192 Ga. App.

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<sup>1</sup> According to the trial court's order these were the only remaining defendants.

628, 629 (385 SE2d 731) (1989). Since the trial court's order did not dispose of all of the claims against the Sheriff's Department, this appeal is premature and is DISMISSED for lack of jurisdiction. See *Turner v. Buhrow*, 205 Ga. App. 444 (422 SE2d 678) (1992).



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **APR 19 2010**

*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.*

*Willi L. Mat:R*      , Clerk.

## **Legal terms and law**

express determination under O.C.G.A. § 9-11-54 (b)

interlocutory appeal requirements of O.C.G.A. § 5-16-34 (b)

interlocutory: provisional; temporary; not final. An order or judgment is interlocutory if it does not determine the issues but directs some further proceeding preliminary to a final degree. Such an order or judgment is subject change by the court during the pendency of the action to meet the exigencies of the case; order determining an intermediate issue, made in the course of a pending litigation which does not dispose of the case, but abides further court action. Such orders are not generally appealable until after the entire matter has been disposed of by final order or judgment. 28 U.S.C. §§ 1291-1293

exigency: an emergency situation which excuses some particular procedure, right, or law from being followed or enforced.

exigent circumstances: emergency situations or conditions which the law recognizes as excusing compliance with some procedural requirement or law, or recognition of another's property or other interests.