



SUPREME COURT OF GEORGIA
Case No. S21M0561

December 12, 2020

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DONALD J. TRUMP et al. v. BRAD RAFFENSPERGER et al.

Petitioners filed this “Emergency Petition for Writ of Certiorari” to challenge the superior court’s December 9, 2020 “Order on Case Status,” which order provided that, because in the underlying election contest petitioners had withdrawn their request for emergency injunctive relief, the case would proceed “in the normal course.” As the basis for their petition, they reference Supreme Court Rules 39 and 40, but those rules provide for petitions for writ of certiorari to this Court from opinions or orders issued by the Court of Appeals filed under Supreme Court Rule 38, and thus do not apply here. For the reasons that follow, we dismiss the petition for lack of jurisdiction.

To the extent that the petition can be construed as a direct appeal from the December 9 order, we note as an initial matter that this Court has subject matter jurisdiction over “election contest[s],” Ga. Const. of 1983, Art. VI, Sec. VI, Par. II (2), and the underlying case fits within that definition, as it is challenging the result of an election. See *Cook v. Bd. of Registrars of Randolph County*, 291 Ga. 67, 70 (727 SE2d 478) (2012). However, the December 9 order is not a final judgment, see OCGA § 5-6-34 (a) (1) (direct appeals may be taken from “[a]ll final judgments, that is to say, where the case is no longer pending in the court below”), and therefore the petitioners were required to follow interlocutory appeal procedures in order to obtain review of the order. See OCGA § 5-6-34 (b); *Duke v. State*, 306 Ga. 171, 171 (829 SE2d 348) (2019). Although there are some exceptions to that general rule, this case does not fit within any

of those exceptions. See OCGA § 5-6-34 (a) (2) - (13) (setting out directly appealable non-final orders).

Additionally, petitioners' reliance on the collateral order doctrine is unavailing. See *Duke*, 306 Ga. at 174. Furthermore, to the extent petitioners challenge the authority of the superior court judge to preside over the pending matter, it does not appear that any order has been entered on the challenge to her authority that they represent has been filed below, and thus this issue provides no basis for invoking the Court's jurisdiction. See *Titelman v. Stedman*, 277 Ga. 460, 461 (591 SE2d 774) (2003) (order is not appealable until written, signed by judge, and filed with the clerk).

Finally, to the extent that petitioners seek original relief, petitioners have not shown that this is one of those extremely rare cases that would invoke our original jurisdiction. See generally *Brown v. Johnson*, 251 Ga. 436 (306 SE2d 655) (1983). Accordingly for all these reasons, this Court lacks jurisdiction to consider the petition and dismisses it.

Melton, C. J., Nahmias, P. J., and Boggs, Peterson, Warren, Bethel, Ellington, and McMillian, JJ., 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