

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned November 5, 2010

QUINT BOURGEOIS v. McCURDY AND CANDLER, LLC, ET AL.

**Appeal from the Chancery Court for Sevier County
No. 10-4-095 Telford E. Forgety, Jr., Chancellor**

No. E2010-02044-COA-R3-CV - FILED NOVEMBER 5, 2010

The pertinent order in this case was entered by the trial court on August 25, 2010. Therefore, the thirtieth day from and after the date of entry of the order was Friday, September 24, 2010. The date of September 24, 2010, was not a legal holiday and there is nothing before us to indicate that it was a day when “weather or other conditions have made the office of the court clerk inaccessible.” Tenn. R. App. P. 21(a). The appellant’s notice of appeal was received and filed by the trial court clerk on Monday, September 27, 2010. As can be seen, the notice was not filed and received by the trial court clerk within 30 days of the date of entry of the order from which the appeal was taken. Accordingly, we have no jurisdiction of this appeal due to the untimely filing of the notice of appeal. Appeal dismissed.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

CHARLES D. SUSANO, JR., D. MICHAEL SWINEY, AND JOHN W. MCCLARTY, JJ.

Bill W. Petty, Knoxville, Tennessee, for the appellant, Quint Bourgeois.

John T. Buckingham, Knoxville, Tennessee, for the appellees, McCurdy and Candler, LLC, Bridgewater and Associates, Inc., and MCC TN, LLC.

MEMORANDUM OPINION¹

¹Rule 10 of the Rules of the Court of Appeals provides as follows:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

On October 6, 2010, the appellees filed a motion to dismiss this appeal based upon their assertion that the appellant's notice of appeal was not timely filed. Exhibits attached to the affidavit of John T. Buckingham, attorney for the appellees, which affidavit was filed in support of the appellees' motion, demonstrate the correctness of the appellees' assertion as to the dates of entry/filing of the order appealed from and the notice of appeal. The notice was not timely filed. We lack jurisdiction of this appeal.

The appeal of the appellant Quint Bourgeois is dismissed. Costs on appeal are taxed to Quint Bourgeois. Case remanded, pursuant to applicable law, for enforcement of the trial court's judgment and the collection of costs assessed by the trial court.

PER CURIAM