

FILED

02/28/2023

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
February 24, 2023

IN RE SKYLAR K.

**Appeal from the Circuit Court for Hamilton County
No. 20A229 John B. Bennett, Judge**

No. E2022-01757-COA-R3-PT

Because the notice of appeal in this case was not timely filed this Court lacks jurisdiction to consider this appeal.

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

JOHN W. MCCLARTY, J.; D. MICHAEL SWINEY, C.J.; AND, KRISTI M. DAVIS, J.

Courtney T., Chattanooga, Tennessee, pro se appellant.

Michael S. Jennings, Chattanooga, Tennessee, for the appellees, Ashley T. and Hunter T.

Lucy C. Wright, Chattanooga, Tennessee, guardian ad litem.

MEMORANDUM OPINION¹

Upon a review of the notice of appeal and the motion to dismiss filed by the appellees, Ashley T. and Hunter T., this Court determined that the notice of appeal was not timely filed in accordance with Rule 4(a) of the Tennessee Rules of Appellate Procedure. The Trial Court's judgment was entered on November 9, 2022. Appellant, Courtney T. ("Appellant"), filed her notice of appeal in this Court on December 12, 2022, which is

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

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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

thirty-three days after entry of the Trial Court’s judgment. By Order entered February 16, 2023, this Court ordered Appellant to show cause why this appeal should not be dismissed. Appellant responded to our show cause order, but failed to show that this appeal was timely filed.

A notice of appeal “shall be filed with the clerk of the appellate court within 30 days after the date of entry of the judgment appealed from . . .” Tenn. R. App. P 4(a). “The thirty-day time limit for filing a notice of appeal is mandatory and jurisdictional in civil cases.” *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *see also Ball v. McDowell*, 288 S.W.3d 833, 836 (Tenn. 2009). If a notice of appeal is not timely filed, this Court is not at liberty to waive the procedural defect. Tenn. R. App. P. 2.; *see also Arfken & Assocs., P.A. v. Simpson Bridge Co.*, 85 S.W.3d 789, 791 (Tenn. Ct. App. 2002).

Appellant failed to file her notice of appeal within thirty days of entry of the Trial Court’s judgment. As such, the notice of appeal was untimely filed, thus depriving this Court of jurisdiction to consider the appeal. The motion to dismiss is hereby GRANTED, and this appeal is hereby DISMISSED. Costs on appeal are taxed to Appellant, Courtney T., for which execution may issue.

PER CURIAM