

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
July 31, 2018

FILED
07/31/2018
Clerk of the
Appellate Courts

VICKY LYNN BALLARD v. NOAH THOMAS BALLARD

**Appeal from the General Sessions Court for Wilson County
No. 2016-DV-97 John Thomas Gwin, Judge**

No. M2018-01217-COA-R3-CV

This is an appeal from an Amended Final Decree of Divorce entered on November 15, 2017. Because the appellant did not file his notice of appeal within thirty days after entry of the decree as required by Tenn. R. App. P. 4(a), we dismiss the appeal.

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

FRANK G. CLEMENT JR., P.J., M.S., ANDY D. BENNETT and RICHARD H. DINKINS, JJ.

Noah Thomas Ballard, Hermitage, Tennessee, pro se.

Abby Rose Rubinfeld, Nashville, Tennessee, for the appellee, Vicky Lynn Ballard.

MEMORANDUM OPINION¹

The appellee, Vicky Lynn Ballard, has filed a motion to dismiss this appeal for failure to file a timely notice of appeal. Ms. Ballard asserts the trial court entered a Final Decree of Divorce on November 2, 2017, and an Amended Final Decree of Divorce on November 15, 2017. No post-judgment motions were filed. Under Tenn. R. App. P. 4(a), a party must file a notice of appeal with the clerk of this court within thirty days after

¹Tenn. R. Ct. App. 10 states:

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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

entry of the final judgment. The appellant, Noah Thomas Ballard, was thus required to file his notice of appeal on or before December 15, 2017. Mr. Ballard did not file his notice of appeal until July 2, 2018, more than six months after entry of the Amended Final Decree of Divorce.

Mr. Ballard has responded to the motion to dismiss by sending a series of emails to the clerk of this court. The Tennessee Rules of Appellate Procedure do not permit the filing of responses by email. Nevertheless, the court has reviewed the emails and finds that Mr. Ballard does not dispute the material dates set forth in the motion to dismiss or otherwise demonstrate that his appeal was timely filed.

The time limit for filing a notice of appeal is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 869 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Serv. Corp.* 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal deprives this court of jurisdiction to hear the matter. *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d at 869.

The appeal is hereby dismissed. The case is remanded to the trial court for further proceedings consistent with this opinion. Noah Thomas Ballard is taxed with the costs for which execution may issue.

PER CURIAM