

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
August 5, 2022

FILED
08/05/2022
Clerk of the
Appellate Courts

BRIANNA DANIELLE KING v. AARON JEFFERSON DAILY

**Appeal from the Circuit Court for Rutherford County
No. 70778 Darrell Scarlett, Judge**

No. M2022-00556-COA-R3-CV

This is an appeal from a final order entered on March 28, 2022. Because the appellant did not file her notice of appeal within thirty days after entry of the final order as required by Tennessee Rule Appellate Procedure 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 W. NEAL MCBRAYER, JJ.

Brianna Danielle King, Murfreesboro, Tennessee, pro se.

Erin Monet King, Gallatin, Tennessee, for the appellee, Aaron Jefferson Daily.

MEMORANDUM OPINION¹

Appellant, Brianna Danielle King, has appealed from a final order entered by the Circuit Court for Rutherford County on March 28, 2022. Appellee, Aaron Jefferson Daily, has moved to dismiss the appeal asserting, in part, that Ms. King failed to file a timely notice of appeal. Ms. King has not filed a timely response in opposition to the motion to dismiss.

¹Under the rules of this Court, as a memorandum opinion, this opinion may not be published, “cited[,] or relied on for any reason in any unrelated case.” Tenn. Ct. App. R. 10.

Rule 4(a) of the Tennessee Rules of Appellate Procedure requires that a notice of appeal be filed with the clerk of the appellate court within thirty days after entry of the judgment appealed. Ms. King filed her notice of appeal on April 28, 2022, thirty-one days after entry of the final judgment. The thirty-day 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, 868 at n.1 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Servs. 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 at n.1.

The appeal is dismissed for failure to file a timely notice of appeal. Because we do not have jurisdiction to hear the appeal, the remaining issues raised in Mr. Daily's motion to dismiss are moot. The case is remanded to the trial court for further proceedings consistent with this opinion. Brianna Danielle King is taxed with the costs for which execution may issue.

PER CURIAM