

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
May 18, 2021

FILED 05/19/2021 Clerk of the Appellate Courts
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**JUMITRIUS R. HUTCHINS v. CHATTANOOGA HAMILTON COUNTY
HOSPITAL AUTHORITY D/B/A/ ERLANGER HEALTH SYSTEM**

**Appeal from the Circuit Court for Hamilton County
No. 20C749 L. Marie Williams, Judge**

No. E2020-01486-COA-R3-CV

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

D. MICHAEL SWINEY, C.J.; JOHN W. MCCLARTY, J.; AND, THOMAS R. FRIERSON, II, J.

Jumitrius R. Hutchins, Stevenson, Alabama, pro se appellant.

Arthur P. Brock and Brian Christopher Bush, Chattanooga, Tennessee, for the appellee, Chattanooga-Hamilton County Hospital Authority dba Erlanger Health System.

MEMORANDUM OPINION¹

Upon a review of the record, 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.

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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

The Trial Court’s judgment was entered on September 28, 2020. Appellant, Junitrius R. Hutchins (“Appellant”), filed his notice of appeal in this Court on October 29, 2020, which is thirty-one days after entry of the Trial Court’s judgment. By Order entered May 4, 2021, this Court ordered Appellant to show cause why this appeal should not be dismissed. Appellant responded to our show cause order and stated he was late in filing due to health issues.

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).

As Appellant failed to file his notice of appeal within thirty days of entry of the Trial Court’s judgment, the notice of appeal was untimely filed, thus depriving this Court of jurisdiction. This appeal is hereby DISMISSED. Costs on appeal are taxed to Appellant, Junitrius R. Hutchins, for which execution may issue.

PER CURIAM