

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

IN RE TAURIAN L C-G, ET AL.

**Appeal from the Juvenile Court for Rutherford County
No. TC1831T Donna Scott Davenport, Judge**

No. M2013-02183-COA-R3-PT - Filed October 30, 2013

This is an appeal from an order of terminating a biological father's parental rights. Because the father did not file his notice of appeal with the trial court clerk within the time permitted by Tenn. R. App. P. 4, we dismiss the appeal.

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

PATRICIA J. COTTRELL, P.J., M.S.; ANDY D. BENNETT AND RICHARD H. DINKINS, JJ.

Brandon Michael Booten, Murfreesboro, Tennessee, for the appellant, John Warren G.

Aaron C. Hall, Murfreesboro, Tennessee, Guardian Ad Litem.

Robert E. Cooper, Jr., Attorney General and Reporter and Paul Jordan Scott, for the appellee, State of Tennessee, Department of Children's Services.

MEMORANDUM OPINION¹

On August 13, 2013, the Juvenile Court for Rutherford County entered a final order terminating the parental rights of B.J.C. and J.W.G.. J.W.G. filed his notice of appeal on

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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

September 17, 2013. The Department of Children's Services has now filed a motion to dismiss the appeal for failure to file a timely notice of appeal. J.W.G. has not filed a response disputing the dates set forth by the Department or otherwise opposing dismissal of the appeal.

Tenn. R. App. P. 4(a) requires that a notice of appeal be filed with and received by the trial court clerk within thirty (30) days after entry of the judgment appealed. J.W.G.'s notice of appeal was not filed until thirty-five days after entry of the judgment. 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 for failure to file a timely notice of appeal. The costs of the appeal are taxed to J.W.G. and his surety for which execution may issue.

PER CURIAM