

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
Assigned November 23, 2015

CAROLYN PRIMM v. TENNESSEE BOARD OF APPEALS ET AL.

**Appeal from the Chancery Court for Davidson County
No. 140798IV Russell T. Perkins, Chancellor**

No. M2015-02205-COA-R3-CV – Filed November 24, 2015

The plaintiff has appealed from a final order entered on September 25, 2015, dismissing her Petition for Judicial Review. Because the plaintiff did not file her notice of appeal within the thirty day time period 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.

Carolyn Primm, LaVergne, Tennessee, Pro se.

Eugenie B. Whitesell, Nashville, Tennessee, for the appellees, Tennessee Department of Correction and Steve R. Darnell.

MEMORANDUM OPINION¹

This appeal arises out of a petition for judicial review filed by Carolyn Primm, a former employee of the Tennessee Department of Correction. The trial court entered a Memorandum and Final Order dismissing Ms. Primm’s petition with prejudice on September 25, 2015. On October 26, 2015, Ms. Primm filed with the clerk of this court an application for an extraordinary appeal pursuant to Tenn. R. App. P. 10. Appeal No. M2015-02062-COA-R10-CV. The court denied Ms. Primm’s application on October 30,

¹ Tenn. Ct. App. R. 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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

2015, on the grounds the September 25, 2015 order was a final judgment and Tenn. R. App. P. 10 permits extraordinary appeals only from interlocutory orders. The court also determined that Ms. Primm's Tenn. R. App. P. 10 application could not be construed as a notice of appeal because it was not filed with and received by the trial court clerk as required by Tenn. R. App. P. 4. Ms. Prim finally filed a notice of appeal with the trial court clerk on November 3, 2015.

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. Ms. Primm filed her notice of appeal with the trial court clerk thirty-nine (39) days after entry of the order appealed. 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*, 285 S.W.3d at 869.

The appeal is hereby dismissed for failure to file a timely notice of appeal. The costs are taxed to Carolyn Primm for which execution may issue.

PER CURIAM