

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
August 2023

FILED
08/29/2023
Clerk of the
Appellate Courts

**STATE OF TENNESSEE v. DELINQUENT TAXPAYERS 2009 (ANTHONY
DECARLO HAYES)**

**Appeal from the Chancery Court for Shelby County
No. 9488-3 JoeDae L. Jenkins, Chancellor**

No. W2021-01276-COA-R3-CV

The notice of appeal in this case was not timely filed. Therefore, this Court lacks jurisdiction to consider this appeal.

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

CARMA DENNIS MCGEE, J.; J. STEVEN STAFFORD, P.J., W.S.; ARNOLD B. GOLDIN, J.

Anthony Decarlo Hayes, Sr., *pro se* Appellant.

Gregory S. Gallagher, Memphis, Tennessee, for the Appellee, Shelby County, Tennessee.

MEMORANDUM OPINION¹

On October 26, 2021, *pro se* Appellant, Anthony Decarlo Hayes, filed a Notice of Appeal in this Court. The Notice of Appeal related to an order of the trial court entered on September 3, 2021, which dismissed Appellant’s pleading styled “Counterclaim TCA 47-

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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

3-305 and Recoupment TCA 47-3-306, Attachment, and Enforceability of Security Interest Pursuant to TCA 47-9-203[.]” Pursuant to Rule 13(b) of the Tennessee Rules of Appellate Procedure, the Court did a preliminary review of the appellate record to determine whether this Court had subject matter jurisdiction over the appeal. Based on that review, we determined that this Court likely did not have subject matter jurisdiction because Appellant’s notice of appeal was not timely filed.

A notice of appeal must be filed within thirty (30) days after the date of entry of the final judgment. *See* Tenn. R. App. P. 4. This thirty-day requirement may not be waived. *American Steinwinter Investor Group v. American Steinwinter, Inc.*, 964 S.W.2d 569 (Tenn. Ct. App. 1997). An appellate court cannot extend the time for filing a notice of appeal. Tenn. R. App. P. 2. “In civil cases, the failure to timely file a notice of appeal deprives the appellate court of jurisdiction to hear the appeal.” *Arfken & Associates, P.A. v. Simpson Bridge Co., Inc.*, 85 S.W.3d 789, 791 (Tenn. Ct. App. 2002) (citations omitted). In fact, “[i]f the notice of appeal is not timely filed, the appellate court is required to dismiss the appeal.” *Id.*

In this case, Appellant is seeking to appeal an order entered by the trial court on September 3, 2021. According to the record transmitted to this Court, the September 3, 2021 order was certified as final pursuant to Rule 54.02 of the Tennessee Rules of Civil Procedure. Thus, Appellant’s notice of appeal should have been filed with the Clerk of this Court on or before October 4, 2021. *See* Tenn. R. App. P. 4(a). However, Appellant did not file his Notice of Appeal with this Court until October 26, 2021, which was more than thirty (30) days after September 3, 2021.

On June 10, 2022, this Court entered an Order setting forth the aforementioned jurisdictional issue caused by Appellant’s untimely Notice of Appeal. Further, the Court directed Appellant to “within fifteen (15) days of entry of [the] Order, show cause why this appeal should not be dismissed for failure to timely file the notice of appeal.” Appellant did not respond to this Court’s June 10, 2022 Order.

In light of the foregoing, this appeal is hereby DISMISSED. Costs of this matter are assessed to Appellant, Anthony Decarlo Hayes, for which execution may issue, if necessary.

PER CURIUM