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ALABAMA COURT OF CIVIL APPEALS

SPECIAL TERM, 2013

2120078

Gloria Savage

v.

Dr. Timothy Marlow et al.

Appeal from Wilcox Circuit Court
(CV-12-8)

On Application for Rehearing

PITTMAN, Judge.

Gloria Savage ("Gloria") has applied for rehearing and asserts in her application that this court should not have dismissed her appeal as untimely filed because, she says, this

2120078

court had previously considered that issue and had ruled that her appeal would be permitted to proceed as timely filed. Before Gloria's appeal was taken under submission and assigned, this court requested "letter briefs" from the parties addressing the issue whether Gloria's notice of appeal had been timely filed, and the parties complied with that request. Based on the assertion in Gloria's letter brief that she had filed her motion titled "Motion to Reconsider Judgment Entered by the Court on the 21st Day of May 2012 or[,] in the Alternative, [to] Grant Relief from [that] Judgment Under Rule 60(b)(6) of the [Alabama Rules of Civil Procedure]" on June 11, 2012, we determined that Gloria's notice of appeal might have been timely filed, and, therefore, we permitted her appeal to proceed. However, after Gloria's appeal was taken under submission and assigned, our review of the entries regarding Gloria's action in the State Judicial Information System and the record on appeal revealed that that motion was filed on June 8, 2012, rather than June 11, 2012, which conclusively established that Gloria's notice of appeal was untimely filed for the reasons explained in our opinion on original submission. An initial ruling by an appellate court

2120078

permitting an appeal to proceed ""does not preclude reconsideration of the fundamental question of appellate jurisdiction after an appellate court has had an opportunity to review the record."" O'Hare v. O'Hare, [Ms. 2110968, May 10, 2013] ___ So. 3d ___, ___ (Ala. Civ. App. 2013) (quoting R.P.M. v. P.D.A., 112 So. 3d 49, 50 (Ala. Civ. App. 2012), quoting in turn Smith v. Smith, 919 So. 2d 315, 316 n.1 (Ala. Civ. App. 2005)). Accordingly, we overrule Gloria's application for rehearing.

APPLICATION OVERRULED.

Thompson, P.J., and Thomas, Moore, and Donaldson, JJ.,
concur.