

FILED

07/19/2018

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
July 18, 2018

KENNETH CAGE v. HARRIS E. DOWLEN

Appeal from the Circuit Court for Davidson County
No. 17C-2772 Joseph P. Binkley, Jr., Judge

No. M2018-01119-COA-R3-CV

This is an appeal from a final judgment entered on March 12, 2018. Because the defendant did not file his notice of appeal within thirty days after entry of the final judgment as 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., RICHARD H. DINKINS and W. NEAL MCBRAYER, JJ.

Harris E. Dowlen, Old Hickory, Tennessee, *pro se*.

Frank E. Mondelli, Nashville, Tennessee, for the appellee, Kenneth Cage.

MEMORANDUM OPINION¹

The appellee, Kenneth Cage, has filed a motion to dismiss this appeal for failure to file a timely notice of appeal. The appellant, Harris E. Dowlen, has not filed a response in opposition to the motion. According to the unopposed motion and the other documents before this court, the trial court entered its final judgment on March 12, 2018. Under Tenn. R. App. P. 4(a), a party must file a notice of appeal with the clerk of this court within thirty days after entry of the final judgment. Mr. Dowlen was thus required

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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

to file his notice of appeal on or before April 11, 2018. Mr. Dowlen did not file his notice of appeal until June 15, 2018, more than three months 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. The case is remanded to the trial court for further proceedings consistent with this opinion.

PER CURIAM