

COURT OF APPEALS OF VIRGINIA

Present: Judges Kelsey, Beales and Senior Judge Clements

HAWA COULIBALY

v. Record No. 0839-14-4

MEMORANDUM OPINION\*  
PER CURIAM  
JANUARY 27, 2015

ARLINGTON DEPARTMENT OF HUMAN SERVICES,  
ANITA FRIEDMAN, ROBERT SHARPE, HOWARD FELDSTEIN,  
ARLYS CEPEDA, CHERYL WALLACE, KEISHA REGISTER,  
VIRGINIA DEPARTMENT OF SOCIAL SERVICES,  
MARGARET R. SCHULTZE, SOLOMON ABAH AND  
ANNIE KURIAN

FROM THE CIRCUIT COURT OF ARLINGTON COUNTY  
William T. Newman, Jr., Judge

(Hawa Coulibaly, *pro se*, on brief).

(Christine R. Sanders; Office of the Arlington County Attorney, on brief), for appellees Arlington County Department of Human Services, Anita Friedman, Robert Sharpe, Howard Feldstein, Arlys Cepeda, Cheryl Wallace and Keisha Register.

(Mark R. Herring, Attorney General; Cynthia V. Bailey, Deputy Attorney General; Kim F. Piner, Senior Assistant Attorney General; Michelle A. L’Hommedieu, Assistant Attorney General, on brief), for appellees Virginia Department of Social Services, Margaret R. Schultze, Solomon Abah and Annie Kurian.

Hawa Coulibaly appeals an order dismissing her petition for appeal. Coulibaly argues that the circuit court erred by (1) dismissing her case and finding that it was not timely filed because she was “being personally sabotaged by the Circuit Court Clerk’s Office;” and (2) not notifying her that her Petition for Proceeding in a Civil Case Without Payment of Fees or Costs had been granted on January 6, 2014. Upon reviewing the record and briefs of the parties, we conclude that this

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\* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

appeal is without merit. Accordingly, we summarily affirm the decision of the circuit court.<sup>1</sup>

See Rule 5A:27.

## BACKGROUND

Coulibaly appealed a decision from the Virginia Department of Social Services (VDSS) to suspend her Temporary Assistance for Needy Family (TANF) benefits and terminate her childcare services. VDSS issued its opinion on November 15, 2013, and Coulibaly timely noted her appeal on December 4, 2013. Pursuant to Rule 2A:4(a), Coulibaly's petition for appeal was due by January 3, 2014, or within thirty days of the filing of her notice of appeal. Coulibaly did not file her petition for appeal until January 13, 2014. She filed a second petition for appeal on January 14, 2014. VDSS was served with the second petition for appeal on January 24, 2014. VDSS filed a plea in bar, or in the alternative, demurrer, and argued that Coulibaly's petition for appeal was filed late pursuant to Rule 2A:4. Arlington County Department of Human Services (ACDHS) filed a plea in bar and demurrer and argued that ACDHS and its employees were not proper parties to the matter.

Citing Rule 2A:4, the circuit court sustained VDSS' and ACDHS' pleas in bar and demurrers, and dismissed the petition for appeal. This appeal followed.

## ANALYSIS

Coulibaly contends the circuit court erred in dismissing her appeal. Coulibaly acknowledges that she filed her petition for appeal late, but asserts that she was not aware that the circuit court signed her petition to proceed *in forma pauperis* until January 10, 2014.<sup>2</sup> She then filed her petition for appeal on the next business day, January 13, 2014.

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<sup>1</sup> The Virginia Department of Social Services filed a motion to dismiss because Coulibaly failed to comply with Rules 5A:20 and 5A:25. The motion to dismiss is denied.

<sup>2</sup> For the first time on appeal, Coulibaly also argues that the circuit court erred by not notifying her when it approved her petition to proceed *in forma pauperis*. We “will not consider

Rule 2A:4(a) states as follows: “Within 30 days after the filing of the notice of appeal, the appellant shall file a petition for appeal with the clerk of the circuit court named in the first notice of appeal to be filed.” “[T]he time limit of the rule is mandatory.” Mayo v. Department of Commerce, 4 Va. App. 520, 523, 358 S.E.2d 759, 761 (1987).

The circuit court did not err in dismissing Coulibaly’s petition for appeal. Coulibaly admittedly failed to timely file the petition for appeal, and the circuit court had no authority to extend the filing deadline.

### CONCLUSION

For the foregoing reasons, the circuit court’s ruling is summarily affirmed.<sup>3</sup> Rule 5A:27.

Affirmed

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an argument on appeal which was not presented to the trial court.” Ohree v. Commonwealth, 26 Va. App. 299, 308, 494 S.E.2d 484, 488 (1998); see Rule 5A:18.

<sup>3</sup> Both VDSS and ACDHS raise additional arguments in support of the circuit court’s dismissal of the petition for appeal; however, this Court will not address those arguments. See Kilby v. Culpeper Cnty. Dep’t of Soc. Servs., 55 Va. App. 106, 108 n.1, 684 S.E.2d 219, 220 n.1 (2009) (“an appellate court decides cases on the best and narrowest ground available” (internal quotations and citations omitted)).