

Cite as 2018 Ark. App. 461

# ARKANSAS COURT OF APPEALS

DIVISION III

No. CV-17-278

\$4,076.00 IN U.S. CURRENCY AND  
NATHANIEL ADAM WALTERS  
APPELLANTS

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: October 3, 2018

APPEAL FROM THE WASHINGTON  
COUNTY CIRCUIT COURT  
[NO. 72CV-16-1941]

HONORABLE CRISTI BEAUMONT,  
JUDGE

DISMISSED WITH PREJUDICE

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**BART F. VIRDEN, Judge**

Pro se appellant Nathaniel Adam Walters appeals from the Washington County Circuit Court’s “Order of Forfeiture” with respect to \$4,076 seized from his vehicle during a traffic stop. Because Walters’s notice of appeal is untimely, we dismiss with prejudice.

I. *Procedural History*

On September 14, 2016, the State filed an “*In Rem* Complaint for Forfeiture of Seized Items.” The complaint indicates that on August 3, 2016, Deputy Velasco of the Washington County Sheriff’s Office stopped Walters for a traffic violation. In a subsequent search of Walters’s vehicle, Velasco found drug paraphernalia, methamphetamine, and \$4,076. The State alleged in its complaint that the currency was subject to forfeiture pursuant to Ark. Code Ann. § 5-64-505 (Supp. 2017). The record

indicates that Walters was served with a summons, along with a copy of the State's complaint, on September 20, 2016.<sup>1</sup>

On November 30, 2016, the trial court entered an order of forfeiture of the \$4,076, concluding that the money "was all intended to be used in exchange for controlled substances, or was the proceeds and profits traceable to such exchanges of controlled substances, or were intended to be used to facilitate a violation of Ark. Code Ann. § 5-64-505." It was noted in the order that Walters had been served with a proper summons and file-marked copy of the complaint but that he had not filed an answer.

Walters filed pro se "motions" on December 2 and 9, 2016, seeking the return of his money. The trial court took no action with respect to Walters's motions. Walters filed a notice of appeal on January 25, 2017.

## II. Discussion

Except as otherwise provided in subdivisions (b) and (c) of this rule, a notice of appeal shall be filed within thirty days from the entry of the judgment, decree, or order appealed from. Ark. R. App. P.-Civ. 4(a). Upon timely filing in the circuit court of a motion to vacate, alter, or amend the judgment made no later than ten days after entry of the judgment, the time for filing a notice of appeal shall be extended for all parties. Ark. R. App. P.-Civ. 4(b). The notice of appeal shall be filed within thirty days from entry of the order disposing of the last motion outstanding. *Id.* However, if the circuit court neither

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<sup>1</sup>Because he was incarcerated at the time, Walters had sixty days within which to file his answer. Ark. R. Civ. P. 12(a)(1).

grants nor denies the motion within thirty days of its filing, the motion shall be deemed denied by operation of law as of the thirtieth day, and the notice of appeal shall be filed within thirty days from that date. *Id.*

In the motions filed on December 2 and 9, 2016, Walters sought the return of “his life savings,” arguing that the money was not subject to forfeiture for various reasons, including that it was not related to any drug offense, and that the seizure of his money was the result of an illegal search. These motions were essentially answers to the State’s complaint for forfeiture, but they were untimely because they were filed beyond the sixty-day period prescribed by Ark. R. Civ. P. 12(a)(1). Although these posttrial motions were filed within ten days of the order of forfeiture on November 30, 2016, they do not constitute any of the motions listed in Ark. R. App. P.-Civ. 4(b)(1).<sup>2</sup> Looking at the substance of his posttrial motions, Walters did not ask for a new trial; he did not use words such as “vacate” or “set aside”; and he did not reference the order of forfeiture or any judgment.

Because Walters’s posttrial motions did not serve to extend the time for filing a notice of appeal pursuant to Ark. R. App. P.-Civ. 4(b)(1), his notice of appeal filed on January 25, 2017—fifty-seven days after entry of the order of forfeiture—was untimely. A

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<sup>2</sup>Motions are to be liberally construed, and we are not blinded by titles; rather, we look to the substance of the motions to ascertain what they seek. \$19,894.00 in *American Currency v. State*, 2016 Ark. App. 244, 491 S.W.3d 486.

timely notice of appeal is a jurisdictional requirement. *Kankey v. State*, 2013 Ark. App. 68.

Without one, we have no jurisdiction and must dismiss Walters's appeal with prejudice.

Dismissed with prejudice.

HARRISON and KLAPPENBACH, JJ., agree.

*Nathaniel Walters*, pro se appellant.

*Leslie Rutledge*, Att'y Gen., by: *Rachel Kemp*, Ass't Att'y Gen., and *Brad Aldridge*, Law Student Admitted to Practice Pursuant to Rule XV of the Rules Governing Admission to the Bar of the Supreme Court under the Supervision of *Darnisa Evans Johnson*, Deputy Att'y Gen., for appellee.