

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

November 28, 2016 Session

IN RE CANNON B.

Appeal from the Juvenile Court for Loudon County
No. 2015-JV-480 Henry E. Sledge, Judge

No. E2016-01826-COA-R3-PT

This is an appeal by the appellant, Abigail T., from an order terminating her parental rights to her minor child. The order terminating the appellant's parental rights was entered on July 19, 2016. The Notice of Appeal was not filed until August 19, 2016, more than thirty (30) days from the date of entry of the final order. The Attorney General, on behalf of the appellee, Tennessee Department of Children's Services, has filed a motion to dismiss this appeal based upon the untimely filing of the Notice of Appeal. Because the record confirms that the Notice of Appeal was not timely filed, we have no jurisdiction to consider this appeal and grant the motion to dismiss.

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

JOHN W. MCCLARTY, CHARLES D. SUSANO, JR., AND THOMAS R. FRIERSON, II, JJ.

Andrew E. Pate, Knoxville, Tennessee, for the appellant, Abigail T.

Herbert H. Slatery, III, Attorney General and Reporter, and W. Derek Green, Assistant Attorney General, General Civil Division, Nashville, Tennessee, for the appellee, Tennessee Department of Children's Services.

Tara A. Henderlight, Knoxville, Tennessee, Guardian Ad Litem.

MEMORANDUM OPINION¹

¹Rule 10 of the Rules of the Court of Appeals provides as follows:

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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

A notice of appeal must “be filed with and received by the clerk of the trial court within 30 days after the date of entry of the judgment appealed from.” Tenn. R. App. P. 4(a). “The thirty-day time limit for filing a notice of appeal is mandatory and jurisdictional in civil cases.” *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004). The appellant has filed no response to the motion to dismiss and both the record and the certified copy of the final order attached to the motion confirms that the date of entry of the final order was July 19, 2016.

Because the Notice of Appeal in this case was not timely filed, we lack jurisdiction to consider this appeal. The motion to dismiss is granted with regard to the argument that the Notice of Appeal was not timely filed and this appeal is dismissed. As such, we need not address the additional argument raised in the motion that the Notice of Appeal did not comply with Tennessee Code Annotated section 36-1-124(d), which states: “Any notice of appeal filed in a termination of parental rights action shall be signed by the appellant.” Costs on appeal are taxed to the appellant, for which execution may issue if necessary.

PER CURIAM