

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
June 11, 2018

FILED
06/21/2018
Clerk of the
Appellate Courts

DONALD DOUGLAS WRIGHT v. ANGEL SIMS WRIGHT

**Appeal from the Circuit Court for Davidson County
No. 16D992 Phillip R. Robinson, Judge**

No. M2018-00792-COA-R3-CV

The appellant has filed a notice of appeal from an order denying her motion to alter or amend. Because the motion to alter or amend was not timely filed and the court has already dismissed the appellant’s prior appeal from the underlying judgment as untimely, we dismiss the appeal for lack of jurisdiction.

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

FRANK G. CLEMENT, JR., P.J., M.S., ANDY D. BENNETT, J., and RICHARD H. DINKINS, J.

Angel Sims Wright, Nashville, Tennessee, pro se.

Mark T. Freeman, Nashville, Tennessee, for the appellee, Donald Douglas Wright.

MEMORANDUM OPINION¹

This is the appellant’s second attempt to perfect an appeal in this case. The trial court entered its final judgment on January 17, 2018. On February 20, 2018, the

¹ Tenn. 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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

appellant, Angel Sims Wright, filed both her first notice of appeal and a Tenn. R. Civ. P. 59 motion to alter or amend. On March 8, 2018, this court dismissed Ms. Wright's first appeal on the grounds the notice of appeal was not filed within thirty days of the judgment as required by Tenn. R. App. P. 4(a). *Wright v. Wright*, App. No. M2018-00290-COA-R3-CV (Tenn. Ct. App. March 8, 2018) (Order granting motion to dismiss). On April 10, 2018, the trial court denied Ms. Wright's motion to alter or amend as untimely. Ms. Wright filed the current appeal from the April 10, 2018 order on April 30, 2018.

The appellee, Donald Douglas Wright, has filed a motion to dismiss Ms. Wright's new appeal on the grounds Ms. Wright's motion to alter or amend was not timely filed. In response, Ms. Wright does not dispute that her motion to alter or amend was untimely but contends that this court nevertheless has jurisdiction over the appeal because the trial court heard argument on the motion and ruled on it.

A motion to alter or amend must be filed within thirty days after entry of the trial court's judgment. Tenn. R. Civ. P. 59.02. Where a motion to alter or amend is filed more than thirty days after the judgment, the trial court lacks jurisdiction to rule on the motion. *Ball v. McDowell*, 288 S.W.3d 833, 836 (Tenn. 2009). Similarly, this court lacks jurisdiction over an appeal from the trial court's denial of a motion to alter or amend where the motion was not filed within thirty days of the judgment. *Ball v. McDowell*, 288 S.W.3d at 837.

Here, there is no dispute that the motion to alter or amend was filed more than thirty days after entry of the judgment and was untimely. The trial court's decision to hold a hearing on the motion before denying it does not alter the fact that the motion was untimely. The trial court thus lacked jurisdiction over the motion, and this court lacks jurisdiction over the appeal.

The appeal is hereby dismissed. Angel Sims Wright is taxed with the costs for which execution may issue.

PER CURIAM