

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on August 8, 2013

**CRAIG C. MARTEN v.
MOUNTAIN STATES HEALTH ALLIANCE, ET AL.**

**Appeal from the Circuit Court for Washington County
No. 29442 Jean A. Stanley, Judge**

No. E2013-00396-COA-R3-CV-FILED-AUGUST 8, 2013

The final judgment from which the appellant seeks to appeal was entered on January 7, 2013. The only Notice of Appeal “filed” by the appellant on February 7, 2013, was submitted to the trial court clerk via facsimile transmission in violation of Rule 5A.02(4)(e) of the Rules of Civil Procedure. Because the Notice of Appeal was insufficient to invoke the jurisdiction of this Court, this appeal is dismissed.

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

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

William J. Taylor, Knoxville, Tennessee, for the appellant, Craig C. Marten.

Frank H. Anderson, Jr., Johnson City, Tennessee, for the appellee, Mountain States Health Alliance.

MEMORANDUM OPINION¹

By order entered on April 23, 2013, this Court directed the appellant to show cause why this appeal should not be dismissed because the Notice of Appeal filed by facsimile

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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

transmission was insufficient to invoke this Court’s jurisdiction. Rule 5A.02(4)(e) of the Rules of Civil Procedure explicitly states that “[t]he following documents shall not be filed in the trial court by facsimile transmission: . . . [a] notice of appeal.”

Counsel for the appellant has filed no response to the show cause order. Given the express language of Rule 5A.02(4)(e), we cannot conclude that a Notice of Appeal was ever actually “filed” with the trial court clerk. As such, our jurisdiction to consider this appeal was never timely invoked pursuant to Rule 4(a) of the Rules of Appellate Procedure. See Davis v. Jackson Tenn. Hosp. Co., LLC, No. W2009-02537-COA-R3-CV, 2010 WL 2812625, at * 3-4 (Tenn. Ct. App., July 16, 2010).

Accordingly, this appeal is dismissed. Costs on appeal are taxed to the appellant, Craig C. Marten, for which execution may issue if necessary.

PER CURIAM