

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs July 21, 2004

STATE OF TENNESSEE v. JAMES FRANKLIN REDDEN

**Direct Appeal from the Circuit Court for Bedford County
No. 15066 Charles Lee, Judge**

No. M2003-01768-CCA-R3-CD - Filed August 20, 2004

A Bedford County jury convicted the defendant, James Franklin Redden, of theft of property valued over \$1,000. The trial court sentenced him to eight years incarceration as a multiple offender. On appeal, the defendant contends the evidence is insufficient to support his conviction. We dismiss the appeal due to the untimely filing of a notice of appeal.

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

JOE G. RILEY, SP. J., delivered the opinion of the court, in which JOSEPH M. TIPTON and ROBERT W. WEDEMEYER, JJ., joined.

Donna Leigh Hargrove, District Public Defender; and Andrew Jackson Dearing, III, Assistant District Public Defender, for the appellant, James Franklin Redden.

Paul G. Summers, Attorney General and Reporter; Thomas E. Williams, III, Assistant Attorney General; William Michael McCown, District Attorney General; and Michael David Randles, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

The defendant was convicted of theft over \$1,000, a Class D felony, for stealing Nellie Mahaffey's vehicle on February 25, 2002. *See* Tenn. Code Ann. §§ 39-14-103, -105(3). The trial court ordered the defendant to serve eight years in confinement as a multiple offender.

The defendant filed a pro se notice of appeal on June 26, 2003, over seven months after the trial court's entry of its November 12, 2002, order denying the defendant's motion for a new trial. Defense counsel subsequently filed a notice of appeal on July 22, 2003. Tennessee Rule of Appellate Procedure 4(a) provides that a notice of appeal must be filed within thirty days of the judgment from which the appeal is taken. However, the appellate court in a criminal case may waive the timely filing of a notice of appeal "in the interest of justice." Tenn. R. App. P. 4(a); *see Crittenden v. State*, 978 S.W.2d 929, 932 (Tenn. 1998). In the case at bar, the defendant filed his notice of appeal more than six months beyond the thirty-day requirement. The record and the defendant's brief offer no explanation for the failure to file a notice of appeal in a timely fashion.

Moreover, the defendant has not requested that this court waive the timely filing of the notice of appeal.

Sufficiency of the evidence is the only issue raised by the defendant on appeal. Upon reviewing the record and the applicable law, we conclude this issue is utterly without merit. Therefore, we conclude the “interest of justice” does not require a waiver of the timely filing of the notice of appeal.

Accordingly, the appeal is dismissed.

JOE G. RILEY, SPECIAL JUDGE