

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON  
Assigned on Briefs May 6, 2025

**FILED**  
05/07/2025  
Clerk of the  
Appellate Courts

**LEON DENTON v. CHANCE LEEDS, WARDEN**

**Appeal from the Criminal Court for Shelby County**  
**No. 12-02872      Carlyn L. Addison, Judge**

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**No. W2024-01595-CCA-R3-HC**

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Petitioner, Leon Denton, was convicted of three counts of aggravated rape, one count of facilitation of aggravated rape, and one count of facilitation of especially aggravated robbery, for which he received an effective sentence of fifteen years' confinement. He subsequently filed a petition for writ of habeas corpus in the Shelby County Criminal Court. The habeas corpus court summarily dismissed the petition. Petitioner now appeals that dismissal. After careful review of the record, we conclude that Petitioner's notice of appeal is untimely. Moreover, Petitioner offers no reasons why the interest of justice would support a waiver of the filing deadline. Accordingly, we dismiss the appeal.

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

ROBERT L. HOLLOWAY, JR., J., delivered the opinion of the court, in which JILL BARTEE AYERS and STEVEN W. SWORD, JJ., joined.

Leon Denton, Whiteville, Tennessee, pro se.

Jonathan Skrmetti, Attorney General and Reporter; Elizabeth Evan, Assistant Attorney General; and Steve Mulroy, District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**Factual and Procedural Background**

In 2015, a jury convicted Petitioner of three counts of aggravated rape, one count of facilitation of aggravated rape, and one count of facilitation of especially aggravated robbery in Shelby County Criminal case number 12-02872. *State v. Denton*, No. W2016-

00910-CCA-R3-CD, 2017 WL 3600464, at \*5 (Tenn. Crim. App. Aug. 21, 2017), *perm. app. denied* (Tenn. Dec. 8, 2017). For these convictions, the trial court sentenced Petitioner, as a Range I standard offender, to an effective sentence of fifteen years' incarceration. *Id.* On direct appeal, Petitioner argued that: the evidence was insufficient to support his convictions; his right to a speedy trial was violated; and his convictions violated double jeopardy. *Id.* at \*1. This court affirmed Petitioner's judgments of conviction, and the Tennessee Supreme Court denied further review. *Id.*

Petitioner subsequently filed a timely petition for post-conviction relief, asserting a wide array of issues, including a claim that he was denied the effective assistance of counsel. *Denton v. State*, No. W2021-01289-CCA-R3-PC, 2022 WL 4355590, at \*2 (Tenn. Crim. App. Sept. 20, 2022), *perm. app. denied* (Tenn. Feb. 8, 2023). Following an evidentiary hearing, the post-conviction court denied relief, and this court affirmed the judgment of the post-conviction court on appeal. *Id.* at \*1.

On August 30, 2024, Petitioner filed a pro se petition for writ of habeas corpus, asserting that he was restrained of his liberty by virtue of an "illegal, void, and/or expired criminal conviction/sentence" rendered by the Shelby County Criminal Court in case number 12-02872. Petitioner alleged that the Tennessee Department of Correction (TDOC) had altered his judgments of conviction by "flagging him as a Multiple Rapist, removing . . . [Petitioner's] pretrial behavior credits and prisoner work and behavior credits from [his] sentence time sheet [and] expiration date[.]" Petitioner asserted that his judgments of conviction did "not state or reflect on the front or back face of the judgment sheet that [Petitioner] [was] serving as a Multiple Rapist 100%[.]" He maintained that TDOC had altered his "documents, release date [and] government documents to reflect such punishments." Petitioner did not attach the judgments of conviction to his petition, and he failed to verify that his claims were not previously adjudicated and that the petition was his first application for the writ.

The habeas corpus court summarily denied the petition in an order entered September 6, 2024. The court noted that it had reviewed the "files, record, and judgment sheet completed following . . . Petitioner's jury trial" and found that TDOC was not "unlawfully forcing [Petitioner] to follow an order not issued by this [c]ourt." On September 23, 2024, Petitioner filed a "motion to reconsider," which the habeas corpus court denied in an order filed September 26, 2024. Petitioner's notice of appeal was stamped filed in this court on October 17, 2024.<sup>1</sup>

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<sup>1</sup> According to the certificate of service, the incarcerated Petitioner placed the notice of appeal in the prison's mailing system on October 11, 2024.

## Analysis

On appeal, Petitioner asserts that the habeas corpus court erred in denying relief, arguing that his sentence “is lawfully complete and expired.” He maintains that TDOC altered his judgments of conviction when it “flagged” him as a “multiple rapist, ordered [him] to enhanced punishments pursuant to [Tennessee Code Annotated section] 39-13-523[,]” and removed his pretrial behavior credits and sentence reduction credits.

### *Untimely Notice of Appeal*

The court must initially address certain procedural issues raised by the State in its brief. The State correctly notes that the notice of appeal in this case was untimely filed. A habeas corpus petitioner has an appeal as of right from the denial of his petition. Tenn. R. App. P. 3(b). Pursuant to Tennessee Rule of Appellate Procedure 4(a), the notice of appeal required by Rule 3 “shall be filed with the clerk of the appellate court within 30 days after the date of entry of the judgment appealed from[.]” Tenn. R. App. P. 4(a). Because Petitioner is a “pro se litigant incarcerated in a correctional facility[,]” he could have timely filed the notice of appeal by delivering it “to the appropriate individual at the correctional facility within the time fixed for filing.” Tenn. R. App. P. 20(g); *see Goodwin v. Hendersonville Police Dep’t*, 5 S.W.3d 633, 634 (Tenn. 1999). Petitioner bears the burden to show that he delivered the notice of appeal “to the appropriate individual at the correctional facility within the time fixed for filing.” *See State v. Jones*, M2011-00878-CCA-R3-CD, 2011 WL 5573579, at \*1 (Tenn. Crim. App. Nov. 15, 2011) (citing Tenn. R. App. P. 4(a)) (stating that the petitioner bears the responsibility to properly perfect his appeal), *perm. app. denied* (Tenn. Apr. 11, 2012); *see also Mathis v. Westbrooks*, No. M2016-01348-CCA-R3-HC, 2016 WL 7155059, at \*2 (Tenn. Crim. App. Nov. 16, 2016), *perm. app. denied* (Tenn. Mar. 8, 2017).

Here, the judgment appealed from was entered on September 6, 2024, and Petitioner had until October 6, 2024, to timely file his notice of appeal. In Petitioner’s notice of appeal, the certificate of service indicates that Petitioner placed the document in the prison’s mailing system on October 11, 2024—more than 30 days after the judgment appealed from was entered.

In response to the State’s argument that the notice of appeal was untimely filed, Petitioner did not seek a waiver of the timeliness requirement. Instead, he asserts in a reply brief that the notice of appeal was timely because it was filed within 30 days of the habeas corpus court’s September 26, 2024 order denying his motion to reconsider. Although “certain pleadings filed . . . with trial courts may toll the commencement of the thirty-day period for filing a notice of appeal[,]” *Jarrett v. State*, No. W2023-01636-CCA-R3-PC, 2024 WL 4851587, at \*2 (Tenn. Crim. App. Nov. 21, 2024), *pet. rehear denied* (Tenn.

Crim. App. Jan. 9, 2025), *perm. app. pending*, a “motion to reconsider” is not included in the list of pleadings that would toll the time limitations for appealing to this court. *State v. Rockwell*, 280 S.W.3d 212, 214 (Tenn. Crim. App. 2007); *see also Holmes v. State*, No. M2017-00268-CCA-R3-HC, 2017 WL 3283416, at \*2 (Tenn. Crim. App. Aug. 2, 2017), *no perm. app. filed*. Petitioner’s motion to reconsider filed on September 23, 2024, did not extend the 30-day period for filing the notice of appeal. Thus, the notice of appeal was untimely.

#### *Waiver of Timely Notice Requirement*

This court may review untimely appeals and determine whether the notice requirement should be waived. Tenn. R. App. P. 4(a). “Waiver is not automatic and should only occur when ‘the interest of justice’ mandates waiver.” *Rockwell*, 280 S.W.3d at 214. “To hold otherwise, by summarily granting waiver whenever confronted with untimely notices, renders the 30 day requirement a legal fiction and circumvents the rule.” *Hill v. State*, No. 01C01-9506-CC-00175, 1996 WL 63950, at \*1 (Tenn. Crim. App. Feb. 13, 1996), *perm. app. denied* (Tenn. May 28, 1996).

In determining whether waiver is appropriate, this court must consider “the nature of the issues for review, the reasons for the delay in seeking relief, and other relevant factors presented in each case.” *Id.*; *see also State v. Broyle*, No. M2005-00299-CCA-R3-CO, 2005 WL 3543415, at \*1 (Tenn. Crim. App. Dec. 27, 2005), *no perm. app. filed*. When a petitioner does “not provide this court with any explanation” for a delayed notice of appeal and does “not acknowledge the late filing[,]” this court may “conclude there is no need to address the [petitioner’s] claim in the interest of justice.” *Ingle v. State*, No. W2020-00334-CCA-R3-HC, 2021 WL 6124265, at \*2 (Tenn. Crim. App. Dec. 28, 2021), *no perm. app. filed*.

Here, Petitioner does not acknowledge that he filed an untimely notice of appeal nor does he request a waiver of the timeliness requirement. Moreover, Petitioner failed to scrupulously comply with the statutory requirements when filing his petition. *See* Tenn. Code Ann. § 29-21-107(b)(2)-(4). As to the issues presented for review, we note that Petitioner cannot show that the judgments are void on their face because the judgment forms are not included in the record and that Petitioner’s claims rely on evidence outside the record. Thus, we conclude that the interest of justice does not warrant a waiver. *Franklin v. Eller*, No. E2023-01018-CCA-R3-HC, 2024 WL 2030448, at \*2 (Tenn. Crim. App. May 7, 2024) (declining to waive the timely notice of appeal requirement and stating that the petitioner “neither provided a reason for the untimeliness of his notice of appeal, nor did he request a waiver of the rule”), *no perm. app. filed*; *Green v. State*, No. W2021-00527-CCA-R3-HC, 2022 WL 971994, at \*2 (Tenn. Crim. App. Mar. 31, 2022) (declining

to waive the timely notice of appeal requirement and stating that the petitioner “has not explained why his notice of appeal was untimely filed”), *no perm. app. filed*.

**Conclusion**

Petitioner’s notice of appeal was not timely filed, and Petitioner has failed to demonstrate that the interest of justice supports a waiver of this requirement. Accordingly, we dismiss the appeal as untimely.

*s/Robert L. Holloway, Jr.*

ROBERT L. HOLLOWAY, JR., JUDGE