

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE  
April 19, 2023

**FILED**  
04/20/2023  
Clerk of the  
Appellate Courts

**IN RE ESTATE OF THOMAS EDWIN BLACKWELL**

**Appeal from the Chancery Court for Monroe County**  
**No. 2019-087      Dwaine Thomas, Judge**

---

**No. E2023-00405-COA-R3-CV**

---

Because the notice of appeal in this case was not timely filed this Court lacks jurisdiction to consider this appeal.

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

KRISTI M. DAVIS, J.; D. MICHAEL SWINEY, C.J.; AND, THOMAS R. FRIERSON, II, J.

Marse Wayne Blackwell, Madisonville, Tennessee, pro se appellant.

John William Cleveland, Sr., Sweetwater, Tennessee, for the appellee, Estate of Thomas Edwin Blackwell.

Lori Ellen Key, Cleveland, Tennessee, pro se appellee.

**MEMORANDUM OPINION<sup>1</sup>**

The appellee, the Estate of Thomas Edwin Blackwell (“Appellee”), filed a motion to dismiss this appeal for failure to timely file the notice of appeal in accordance with Rule 4(a) of the Tennessee Rules of Appellate Procedure. The Trial Court’s judgment was entered on February 6, 2023. The appellant, Marse Wayne Blackwell (“Appellant”), filed

---

<sup>1</sup> Rule 10 of the Rules of the Court of Appeals provides:

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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

his notice of appeal in this Court on March 16, 2023, which is thirty-eight days after entry of the Trial Court’s judgment. By Order entered March 28, 2023, this Court ordered Appellant to show cause why this appeal should not be dismissed. Appellant failed to respond to our show cause order.

A notice of appeal “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). “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); *see also Ball v. McDowell*, 288 S.W.3d 833, 836 (Tenn. 2009). If a notice of appeal is not timely filed, this Court is not at liberty to waive the procedural defect. Tenn. R. App. P. 2.; *see also Arfken & Assocs., P.A. v. Simpson Bridge Co.*, 85 S.W.3d 789, 791 (Tenn. Ct. App. 2002).

Appellant failed to file his notice of appeal within thirty days of entry of the Trial Court’s judgment. As such, the notice of appeal was untimely filed, thus depriving this Court of jurisdiction to consider the appeal. Appellee’s motion to dismiss is hereby GRANTED, and this appeal is hereby DISMISSED. Costs on appeal are taxed to Appellant, Marse Wayne Blackwell, for which execution may issue.

**PER CURIAM**