

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs June 23, 2026

<b>FILED</b> 06/26/2026 Clerk of the Appellate Courts
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**STATE OF TENNESSEE v. JOSEPH ERVIN BOBO**

**Appeal from the Criminal Court for Knox County  
No. 120306 G. Scott Green, Judge**

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**No. E2025-01092-CCA-R3-CD**

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Joseph Ervin Bobo, the Defendant, was convicted by a Knox County jury of one count of conspiracy to possess three hundred grams or more of methamphetamine with the intent to manufacture, deliver, or sell and one count of conspiracy to possess twenty-six grams or more of cocaine with the intent to manufacture, deliver, or sell. *See* T.C.A §§ 39-17-417 (a)(4), (c), (j) (2021 Supp.) (subsequently amended) (possession of a controlled substance with intent to manufacture, deliver or sell); 39-12-103 (2025) (conspiracy). The Defendant alleges that the evidence is insufficient to support his convictions and that the trial court erred in sentencing. The State responds that the Defendant’s appeal should be dismissed because this court does not have jurisdiction as no valid notice of appeal was filed. We dismiss the appeal.

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

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which TIMOTHY L. EASTER and STEVEN W. SWORD, JJ., joined.

Whitney Collins, Knoxville, Tennessee, for the Appellant, Joseph Ervin Bobo.

Jonathan Skrmetti, Attorney General and Reporter; Elizabeth Evan, Assistant Attorney General; Charme P. Allen, District Attorney General; Ta Kisha Fitzgerald and Sean Bright, Assistant District Attorneys General, for the appellee, State of Tennessee.

**OPINION**

The Defendant’s convictions arose from his conduct that occurred in November and December 2021. Evidence at the trial showed that the Defendant coordinated with co-conspirators to sell methamphetamine and cocaine in Blount County. The State presented witnesses that detailed the Defendant’s participation in a widespread drug conspiracy that included several drug transactions. On December 6, 2021, the Tennessee Highway Patrol

seized 497.08 grams of methamphetamine and 1.41 grams of cocaine from a vehicle in which the Defendant was a passenger. The Defendant was convicted of one count of conspiracy to possess three hundred grams or more of methamphetamine with the intent to manufacture, deliver, or sell and one count of conspiracy to possess twenty-six grams or more of cocaine with the intent to manufacture, deliver, or sell. The trial court imposed an effective seventeen-year sentence. The judgments were filed on December 30, 2024, and the Defendant filed a motion for new trial on January 9, 2025. Trial counsel moved to withdraw from representing the Defendant on June 27, 2025. After a hearing, the trial court on June 30, 2025, denied the motion for new trial and denied trial counsel's motion to withdraw.

The Defendant filed a pro se notice of appeal on July 21, 2025. On September 11, 2025, this court ordered the trial court to determine whether the Defendant was represented by trial counsel in the appeal of the convictions. On September 17, 2025, the trial court informed this court that the Defendant continued to be represented by trial counsel. On September 18, 2025, trial counsel filed a "Notice of Appearance" with this court and on January 2, 2026, filed the appellant's brief. On March 19, 2026, the State filed its brief arguing "that the pro se notice of appeal is a nullity [] because counsel never filed a notice of appeal." Trial counsel never filed a notice of appeal in this case and has not filed a reply brief responding to the State's argument that the appeal should be dismissed.

Our courts have concluded that that a defendant "does not have a constitutional right under the State or Federal Constitution to participate *in propria persona* in his own defense and simultaneously to be represented by participating counsel." *State v. Burkhardt*, 541 S.W.2d 365, 371 (Tenn. 1976); *see Wallace v. State*, 121 S.W.3d 652, 655 n.2 (Tenn. 2003); *State v. Muse*, 637 S.W.2d 468, 470 (Tenn. Crim. App. 1982) (stating a defendant may not file pro se motions while represented by counsel). This court is required to "consider whether the trial and appellate court have jurisdiction over the subject matter" of every issue presented. Tenn. R. App. P. 13. A notice of appeal shall be filed within thirty days after entry of the judgment from which the appeal is taken. *Id.* 4(a). In criminal cases, the timely filing of a notice of appeal is not jurisdictional and may be waived in the interests of justice. *Id.* However, a filing of the notice of appeal is required for this court to have subject matter jurisdiction over an appeal. *Id.* The failure to file a notice of appeal may result in the dismissal of the appeal. *Id.* 3(e) (stating that an appellate court may dismiss an appeal where a timely filing of a notice of appeal is absent).

The State contends that the Defendant's appeal should be dismissed because the Defendant is represented by trial counsel, and therefore, his pro se notice of appeal is a nullity. Trial counsel has not filed a notice of appeal nor addressed the State's argument in a reply brief. We agree with the State.

The Defendant's motion for new trial and trial counsel's motion to withdraw were denied by the trial court on June 30, 2025. The Defendant filed a pro se notice of appeal on July 21, 2025, while being represented by trial counsel. The Defendant's pro se notice is a nullity because he was represented by trial counsel at the time of the filing. *See Burkhart*, 541 S.W.2d at 37. On September 17, 2025, the trial court confirmed that the Defendant's trial counsel represented the Defendant on appeal. Though trial counsel filed a notice of appearance with this court on September 18, 2025, she did not file a notice of appeal. The Defendant's brief does not address the issue of the lack of a valid notice of appeal being filed with this court. Furthermore, the Defendant did not file a reply brief to rebut the State's argument that a valid notice of appeal was never filed. The effect is not an untimely notice of appeal, the timely filing of which this court may waive in the interest of justice, but rather the absence of a notice of appeal. Accordingly, this court does not have subject matter jurisdiction. *See* Tenn. R. App. P. 3(e), 4(a).

In consideration of the foregoing and the record as a whole, we dismiss this appeal for lack of subject matter jurisdiction.

**s/Robert H. Montgomery, Jr.**  
ROBERT H. MONTGOMERY, JR., JUDGE