

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned February 28, 2011

JEFFREY PAUL ROLLER v. ANNA MARIE ROLLER

**Appeal from the Chancery Court for Anderson County
No. 09CH0250 William E. Lantrip, Chancellor**

No. E2011-00153-COA-R3-CV - Filed March 14, 2011

The order from which the appellant Anna Marie Roller seeks to appeal was entered on Wednesday, December 15, 2010. A notice of appeal was filed by the appellant on Tuesday, January 18, 2011, the 34th day following the entry of the trial court's order. Because the notice of appeal was not timely filed, we have no jurisdiction to consider this appeal. Accordingly, the motion of the appellee to dismiss is granted. This appeal is dismissed.

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

CHARLES D. SUSANO, JR., D. MICHAEL SWINEY, AND JOHN W. MCCLARTY, JJ.

Brandy Boyd Slaybaugh, Knoxville, Tennessee, for the appellant, Anna Marie Roller.

Jim Terry, Clinton, Tennessee, for the appellee, Jeffrey Paul Roller.

MEMORANDUM OPINION¹

Our jurisdiction of this Tenn. R. App. P. 3 appeal as of right is dependent upon the timely filing of a notice of appeal. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004). In the instant case, the day of the relevant order, *i.e.*, December 15, 2010, is not counted in determining the last day of the 30-day period of time for the filing of a notice of appeal. *See* Tenn. R. App. P. 21(a). Therefore, there were 16 days left in December and 14 days in

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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

January within which the appellant could file her notice. Hence, the last day the notice could be timely filed was Friday, January 14, 2011. It follows that the notice of appeal filed January 18, 2011, was not timely filed. We have no jurisdiction to hear the appellant's appeal.

The appeal of Anna Marie Roller is dismissed with costs on appeal taxed to her.

PER CURIAM