

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs July 1, 2026

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Clerk of the
Appellate Courts

BEVERLY HENSON v. MELANIE WISHON

Appeal from the Circuit Court for Greene County
No. CC25CV287-BB Beth Boniface, Judge

No. E2025-01653-COA-R3-CV

In this detainer action, the trial court granted the plaintiff a judgment for possession of real property after a bench trial. On appeal, the defendant contends the trial court lacked subject matter jurisdiction and the plaintiff lacked standing. The defendant also contends the judgment and writ of possession are void. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

W. NEAL MCBRAYER, J., delivered the opinion of the court, in which KRISTI M. DAVIS and VALERIE L. SMITH, JJ., joined.

Beverly Henson, Chuckey, Tennessee, pro se appellant.

Melanie Wishon, Chuckey, Tennessee, pro se appellee.

MEMORANDUM OPINION¹

I.

Two sisters, Melanie Wishon and Beverly Henson, dispute possession of real property located in Greene County. In 1972, the property was deeded to Ms. Wishon and another sister, Angela Thomas, in fee, subject to a life estate in favor of their mother. While their mother was living, she permitted Ms. Henson to live on the property in a manufactured home. Her street address was 213 Fox Road.

¹ Under the rules of this Court, this memorandum opinion may not be published, “cited[,] or relied on for any reason in any unrelated case.” TENN. CT. APP. R. 10.

After their mother's death, Ms. Henson received a letter from Ms. Wishon advising of plans to sell the property on which Ms. Henson lived. The letter instructed, "All occupants have 14 days to remove all personal property and belongings and vacate the property." The letter also warned, "Further legal action will be taken if property is not vacated by May 21, 2025."

Further legal action took the form of a detainer warrant in general sessions court. The warrant, filed by Ms. Wishon against Ms. Henson "and all other occupants," claimed unlawful detainer of a "[s]ingle wide (gray with rust)" located at "215 Fox Rd," rather than 213 Fox Road. *See* Tenn. Code Ann. § 29-18-104 (2024) (defining unlawful detainer). After a trial in which both sisters participated, the general sessions court entered judgment for Ms. Henson.

Ms. Wishon appealed. In circuit court, she filed a "Notice of Trial" that identified the property as 213 Fox Road. On the noticed date for trial, both parties appeared. Ms. Henson admitted receiving the notice of trial but denied receiving notice of the appeal from the general sessions court. So the trial court reset the matter to allow Ms. Henson time to review the case file and to prepare. The court also determined that the notice of appeal should be corrected to show the address as 213 Fox Road.

Following the hearing, Ms. Henson moved pro se to dismiss for lack of personal jurisdiction due to insufficient service of process and failure to state a claim upon which relief can be granted. She also argued that dismissal was appropriate due to Ms. Wishon's fraudulent conduct and unclean hands and the misconduct and violations of Tennessee Rule of Civil Procedure 11 by Ms. Wishon's attorney.

On the rescheduled date for trial, the court first heard argument on Ms. Henson's motion to dismiss. Following arguments on the motion, the trial commenced with Ms. Wishon's testimony. Ms. Henson, who refused to take the witness stand, testified from her seat. The statement of evidence summarized her testimony as follows:

[Ms. Henson] had never paid rent, had no landlord-tenant relationship with [Ms.] Wishon, did not receive the appeal, had lived in the trailer for an extensive period of time, that there existed a title for the trailer in Melanie Wishon's name proving that it was personalty, that her mailing address is 213 Fox Road, and 215 Fox Road does not have a mailbox.

The court took all matters under advisement.

A few days later, while the case was under advisement, Ms. Henson filed a motion to dismiss based on lack of subject matter jurisdiction. She claimed subject matter jurisdiction was lacking because "[t]he underlying detainer warrant . . . improperly seeks possession of a titled mobile home, which is personal property under Tennessee law."

Because the forcible entry and detainer statutes apply exclusively to disputes involving real property, “the Court’s jurisdiction in a detainer action does not extend to personal property [and] this case must be dismissed.”

The next day, the court entered separate orders denying Ms. Henson’s motions to dismiss. On the question of the sufficiency of the service, the court found that Ms. Henson was personally served with the detainer warrant and determined that it had personal jurisdiction over her. And the detainer warrant stated a claim for unlawful detainer. The court also found the argument that Ms. Wishon should be sanctioned for material misrepresentations baseless.

On the question of subject matter jurisdiction, the court noted that by statute both general sessions and circuit courts have subject matter jurisdiction over detainer actions. And it concluded that it had subject matter jurisdiction based on the timely appeal from the general sessions court. As for the argument that Ms. Wishon was seeking possession of the mobile home, not real property, and was required to file a replevin action, it reasoned that, because the mobile home was located on Ms. Wishon’s real property, a detainer action was the appropriate cause of action.

The trial court granted a judgment restoring possession of the real property to Ms. Wishon. It found no dispute that Ms. Wishon owns the real property upon which Ms. Henson resides in a mobile home. It also found no dispute that there was no contractual right for Ms. Henson to remain on the property. Ms. Wishon had sent Ms. Henson a letter informing her of the impending sale of the property, but Ms. Henson refused to vacate.

II.

A.

On appeal, Ms. Henson raises four issues. Her first issue questions whether Ms. Wishon had standing to file a detainer action because she “did not hold title to the subject mobile home^[2] when she filed the detainer summons.” On this point, Ms. Henson notes that Ms. Wishon’s certificate of title for the mobile home was not issued until 49 days after the filing of the warrant. Her second issue questions whether the trial court “lacked subject matter jurisdiction because the detainer statutes . . . apply exclusively to real property disputes[] and the mobile home at issue is titled personal property . . . as confirmed by [the certificate of title].” Her third issue questions whether “the judgment is void for [a] fatal pleading variance where the detainer summons described only a

² On appeal, and apparently at trial, Ms. Henson uses the terms “manufactured home” and “mobile home” interchangeably. Under Tennessee’s motor vehicle title and registration law, a mobile home can include a manufactured home. Tenn. Code Ann. § 55-1-105(b) (Supp. 2025).

‘single wide gray’ mobile home at 215 Fox Road . . . yet the judgment awarded possession of a land parcel at 213/215 Fox Road.” Finally, Ms. Henson questions whether the writ of possession was void because it awarded possession of the mobile home.

We can swiftly dispense with Ms. Henson’s first issue, which questions Ms. Wishon’s standing. Although Ms. Henson raised several grounds for dismissal of the detainer action before the trial court, standing was not among them. And our supreme court has determined that lack of standing may not be raised for the first time on appeal. *In re Est. of Smallman*, 398 S.W.3d 134, 148 (Tenn. 2013). So we consider the issue waived. *See id.*

Because they are related, we consider Ms. Henson’s second and fourth issues together. Although she couches her second issue as a question of the court’s subject matter jurisdiction, we agree with the trial court that the issue is not about the court’s subject matter jurisdiction. Subject matter jurisdiction refers to “the power of a court to adjudicate cases of the general class to which the proceedings in question belong.” *Est. of Brown*, 402 S.W.3d 193, 198 (Tenn. 2013). Both general sessions courts and circuit courts have the power to adjudicate unlawful detainer cases. Tenn. Code Ann. §§ 29-18-107, -108 (2024); *U.S. Bank Nat’l Ass’n v. Robertson*, No. W2017-01421-COA-R3-CV, 2018 WL 2175694, at *2 (Tenn. Ct. App. May 11, 2018). And an appeal of a detainer action filed in the general sessions court lies with the circuit court. Tenn. Code Ann. §§ 29-18-128 (2024), 27-5-108(a)(1) (Supp. 2025).

Instead, Ms. Henson’s second and fourth issues are about whether the court can grant possession of a mobile home in a detainer action if the mobile home is personal property. After all, the intent behind the statutory action of unlawful detainer was “to determine rightful possession of real property.” *Newport Hous. Auth. v. Ballard*, 839 S.W.2d 86, 89 (Tenn. 1992). Replevin or detinue is used to recover possession of personal property. Tenn. Code Ann. §§ 29-30-101, -201 (2024).

The judgment against Ms. Henson does not grant Ms. Wishon possession of the mobile home, contrary to Ms. Henson’s claim. The judgment provides, “IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Judgment is for the Plaintiff and that Plaintiff shall be restored to possession of the land located at Control Map 114, Parcel 029.01, known as 213 and 215 Fox Road, Chucky, Tennessee. A Writ of Possession may issue.”

The writ of possession, however, goes further than the judgment. The writ issued by the clerk granted Ms. Wishon possession of the real property “known as 213 and 215 Fox Road, Chuckey TN as Ordered in Court on October 8, 2025” but also the “single wide trailer, gray in color, sitting at 213 and 215 Fox Road, Chuckey TN.” We agree with Ms. Henson that it was inappropriate for the writ to grant Ms. Wishon possession of

the trailer. To the extent that the trailer was personal property, it was not relief that could be awarded in a detainer action,³ and more importantly, it was not relief the court granted in its judgment.

Although we conclude that the writ of possession was too broad, the writ permissibly authorized Ms. Henson's removal from the real property. The forcible entry and detainer statutes contemplate a writ that causes the plaintiff "to have and be restored" to the real property and for the defendant to be removed from possession of the real property. *Id.* § 29-18-127(a) (2024). Ms. Henson may not avoid the judgment by taking refuge within personal property, specifically a mobile home, located on the detained real property.

Ms. Henson's final issue concerns what she describes as a "fatal pleading variance." According to her, this fatal pleading variance renders the judgment void. The original detainer warrant described the detained property as 215 Fox Road, but Ms. Henson states that the mobile home where she lived was located at 213 Fox Road. The court makes the same finding in its judgment.

At the first hearing, the trial court authorized an amendment to reference the detained property as 213 Fox Road. So we conclude that the property where Ms. Henson lived was appropriately included in the judgment. But even had the amendment not been authorized, the court found that the 0.75-acre parcel of land owned by Ms. Wishon and her sister, Ms. Thomas, was known as both 213 Fox Road and 215 Fox Road. Presuming that factual finding is correct, the court did not err in identifying the detained property as being "known as 213 and 215 Fox Road, Chucky, Tennessee." *See* TENN. R. APP. P. 13(d) (providing that a trial court's factual findings in a civil action are reviewed de novo "accompanied by a presumption of correctness of the finding").

B.

Ms. Wishon requests an award of damages for defending against a frivolous appeal. Tenn. Code Ann. § 27-1-122 (2017). A frivolous appeal is one "utterly devoid of merit." *Combustion Eng'g, Inc. v. Kennedy*, 562 S.W.2d 202, 205 (Tenn. 1978). This appeal was not devoid of merit; it was unsuccessful, not frivolous. *See Coolidge v. Keene*, 614 S.W.3d 106, 120 (Tenn. Ct. App. 2020). So we decline to award damages for a frivolous appeal.

³ A writ of possession may provide for the removal and disposal of personal property left on detained real property after a waiting period. Tenn. Code Ann. § 29-18-127(b) (2024).

III.

Because Ms. Wishon established her right to possession and the judgment does nothing more than restore her possession to the real property, we affirm the judgment. The case is remanded to the trial court for such further proceedings as may be necessary and consistent with this opinion.

s/ W. Neal McBrayer

W. NEAL MCBRAYER, JUDGE