

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
August 18, 2026 Session

FILED

10/05/2026

Clerk of the  
Appellate Courts

**UNIFUND CCR PARTNERS ASSIGNEE OF CITIBANK v. JOHN P.  
MAYO**

**Appeal from the Circuit Court for Davidson County  
No. 06C2580 Lynne T. Ingram, Judge**

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**No. M2025-01633-COA-R3-CV**

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Appellant sought to vacate the trial court's extension of a 2007 judgment for a debt owed to Appellee by filing consecutive Rule 60.02 motions. The trial court denied the second motion on its conclusion that the motion was barred by *res judicata*. Discerning no error, we affirm.

**Tenn. R. App. 3 Appeal as of Right; Judgment of the Circuit Court  
Affirmed and Remanded**

VALERIE L. SMITH, J., delivered the opinion of the court, in which CARMA DENNIS MCGEE and WILLIAM E. PHILLIPS, II, JJ., joined.

John P. Mayo, Nashville, Tennessee, appellant, *pro se*.

Cynthia A. Duppler, Brookfield, Wisconsin, for the appellee, Unifund CCR Partners.

**OPINION**

**I. Background**

On February 22, 2007, the Circuit Court for Davidson County, Tennessee (the “trial court”) entered a judgment in favor of Appellee Unifund CCR Partners Assignee of Citibank against Appellant John P. Mayo for \$63,218.98, plus interest. On January 31, 2017, Appellee filed a motion for extension of judgment under Tennessee Rule of Civil Procedure 69.04, discussed further below. Therein, Appellee alleged that the judgment remained outstanding with a current balance, including post-judgment interest, of \$126,204.52. Appellee asked the trial court to extend the judgment for an additional ten

(10) years. On April 6, 2017, the trial court entered an order renewing the judgment on its finding that Mr. Mayo failed to file a response to the motion.

On June 24, 2025, Mr. Mayo filed a “Motion to Vacate Judgment” (the “First Motion to Vacate”).<sup>1</sup> On July 11, 2025, the trial court heard the First Motion to Vacate, and, by order of July 23, 2025, denied it.

On August 29, 2025, Mr. Mayo filed a “Motion to Vacate Judgment – Due to Unconstitutional Method of Notice Under Rule 69.04” (the “Second Motion to Vacate”). Appellee filed a response, and Mr. Mayo filed a reply to same. On September 19, 2025, the trial court heard the Second Motion to Vacate, and, by order of September 25, 2025, denied it.

Mr. Mayo filed a timely notice of appeal with this Court.

On February 9, 2026, the trial court filed a Statement of the Evidence concerning the July 11, 2025, hearing and the September 19, 2025, hearing as transcripts were not available.

## II. Issues

Mr. Mayo raises three issues for this Court’s review, as stated in his brief:

1. Whether the trial court committed reversible error when it denied [Mr. Mayo’s] motions to vacate the renewed judgment after Appellee provided notice of the Rule 69.04 renewal motion solely by ordinary, unmarked first-class mail in a plain envelope indistinguishable from junk mail, thereby failing the “reasonably calculated to apprise” standard of *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), in violation of due process under the Fourteenth Amendment and Article I, Section 8 of the Tennessee Constitution.
2. Whether the trial court abused its discretion by invoking *res judicata* to bar [Mr. Mayo’s] [Second] Motion to Vacate when the constitutional due-process claim was never briefed, argued on the merits, or adjudicated by the trial court in the first motion or hearing.
3. Whether the renewed judgment must be vacated outright by this Court (rather than remanded) because the constitutionally defective notice renders the renewal void, and whether this Court should provide prospective guidance that future Rule 69.04 renewal notices must use a method reasonably

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<sup>1</sup> It does not appear that Appellee filed a response to this motion.

calculated to actually apprise the judgment debtor, such as USPS Priority Mail with its distinctive envelope and tracking.

In his reply brief, Mr. Mayo raises an additional issue for our review, which was not raised in his initial brief. Specifically, Mr. Mayo argues that the original judgment from 2007 was void for lack of personal jurisdiction because he was allegedly never properly served. Because Mr. Mayo did not raise this as an issue in his initial brief, it is waived. *See Garrett v. Hidden Valley Homes, LLC*, No. M2022-01531-COA-R3-CV, 2023 WL 6799153, at \*3-4 (Tenn. Ct. App. Oct. 16, 2023).

### III. Discussion

As an initial matter, we note that Mr. Mayo is proceeding *pro se* in this appeal. It is well-settled that “pro se litigants are held to the same procedural and substantive standards to which lawyers must adhere.” *Brown v. Christian Bros. Univ.*, 428 S.W.3d 38, 46 (Tenn. Ct. App. 2013). While “[p]arties who choose to represent themselves are entitled to fair and equal treatment by the courts[,]” *Hodges v. Tenn. Att’y Gen.*, 43 S.W.3d 918, 920 (Tenn. Ct. App. 2000) (citing *Paehler v. Union Planters Nat’l Bank, Inc.*, 971 S.W.2d 393, 396 (Tenn. Ct. App. 1997)), “courts must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe.” *Young v. Barrow*, 130 S.W.3d 59, 63 (Tenn. Ct. App. 2003) (citing *Edmundson v. Pratt*, 945 S.W.2d 754, 755 (Tenn. Ct. App. 1996); *Kaylor v. Bradley*, 912 S.W.2d 728, 733 n.4 (Tenn. Ct. App. 1995)). We now turn to the substantive issues.

Tennessee Rule of Civil Procedure 69.04 provides:

Within ten years from the entry of a judgment, the creditor whose judgment remains unsatisfied may file a motion to extend the judgment for another ten years. **A copy of the motion shall be mailed by the judgment creditor to the last known address of the judgment debtor. If no response is filed by the judgment debtor within thirty days of the date the motion is filed with the clerk of court, the motion shall be granted without further notice or hearing, and an order extending the judgment shall be entered by the court.** If a response is filed within thirty days of the filing date of the motion, the burden is on the judgment debtor to show why the judgment should not be extended for an additional ten years. The same procedure can be repeated within any additional ten-year period.

Tenn. R. Civ. P. 69.04 (emphasis added). As discussed above, on April 6, 2017, the trial court entered an order renewing the judgment on its finding that Mr. Mayo failed to respond to Appellee’s motion for extension of judgment. Eight years later, Mr. Mayo filed the First Motion to Vacate. We begin our analysis by reviewing both motions to vacate alongside the Statement of the Evidence.

Briefly, we discuss the purpose of a statement of the evidence. While the appellate record generally includes a transcript of the below proceedings, *see* Tenn. R. App. P. 24(a), when a transcript is unavailable, a statement of the evidence is a “reasonable alternative to a stenographic report.” Tenn. R. App. P. 24(c). It is the appellant’s obligation to prepare a statement of the evidence, which “should convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal.” *Id.* If, on review of the appellant’s statement of the evidence, a trial court determines that certain information was omitted or misstated therein, the court may correct or modify it to conform to the truth. Tenn. R. App. P. 24(e). Here, because the trial court determined that Mr. Mayo’s statement of the evidence did not “convey a fair, accurate, and complete account of the entire record,” the trial court submitted its own Statement of the Evidence. It is this statement that we review below.

In the First Motion to Vacate, Mr. Mayo argued that Tennessee Rule of Civil Procedure 69.04 is “unconstitutional under its current execution as it violates the equal treatment under the law under the 14<sup>th</sup> Amendment.” Specifically, Mr. Mayo argued that “[t]he method of notice by mailing a letter by US Mail of notice is unconstitutional[.]” Mr. Mayo provided no legal authorities to support this argument. However, as part of this argument, he alleged that three to four percent of US mail goes undelivered, and that “junk mail” goes unopened most of the time. Lastly, Mr. Mayo argued that Appellee “has not produced any evidence that [Mr. Mayo] was served in the *original* lawsuit and not his father, who has dementia, with the same name staying at the same address.” (Emphasis added). Mr. Mayo alleged this was “constitutionally inadequate” and cited, but did not discuss, *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950). Mr. Mayo attached four exhibits to this motion: (1) an online article titled “What is the Percentage of Lost Standard USPS Mail?”; (2) a picture of an envelope of “anonymous” mail addressed to Mr. Mayo that was purportedly a letter from opposing counsel; (3) a copy of a “Grok Conversation” where the initial query appears to have been “What percentage of anonymous mail gets opened when received with regular mail and regular junk mail?”;<sup>2</sup> and (4) a picture of an unaddressed USPS Priority Mail Flat Rate Envelope.

Turning to the Statement of Evidence, concerning the July 11, 2025, hearing on the First Motion to Vacate, the trial court found, in pertinent part:

Present at the July 11, 2025 hearing were counsel for Appellee and [Mr. Mayo], *pro se*. The [c]ourt heard argument from both parties. No exhibits were offered into evidence.

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<sup>2</sup> Grok is an “AI Chatbot” that markets itself as “[a] useful assistant for everyday work – writing, research, and quick recaps.” *Grok*, X.AI, <https://perma.cc/YE9C-48SY> (last visited September 16, 2026).

As to the [First Motion to Vacate], [Mr. Mayo] argued the “ten-year renewal” was sent by First-Class Mail and does not satisfy the intent of the creditor’s obligation on ten-year renewals. [Mr. Mayo] argued that a piece of anonymous mail may not even be opened by the recipient amongst voluminous junk mail. He argued that only 25-50% of pieces of anonymous mail will get opened and argued that a document of this nature being sent by First-Class Mail is unconstitutional.

Appellee argued it complied with the rule of civil procedure for the renewal of the judgment by mailing the motion for renewal to [Mr. Mayo’s] last known address. Appellee further argued the law does not require a motion of this nature be sent by certified mail and asserted there is no legal basis for vacating the renewed judgment on the grounds sought by [Mr. Mayo].

In response, [Mr. Mayo] admitted that Appellee did comply with the law by sending by First-Class Mail but argued that the law is unjust and unconstitutional.

Based on the foregoing, the trial court entered an order denying the First Motion to Vacate. Over one month later, Mr. Mayo filed the Second Motion to Vacate.

In the opening paragraph of the Second Motion to Vacate, Mr. Mayo asked the trial court to consider the motion under Tennessee Rule of Civil Procedure 60.02, discussed further below. Mr. Mayo argued that the motion was “based solely on the unconstitutional method of notice employed under Rule 69.04, which violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution.” Mr. Mayo provided case law allegedly supporting this argument as well as four exhibits: (1) a picture of an envelope of “anonymous” mail addressed to Mr. Mayo that was purportedly “an actual envelope used for Rule 69.04 notices”; (2) a document titled “The Household Diary Study, Mail Use & Attitudes FY 2022,” which was purportedly submitted to the Postal Regulatory Commission; (3) a graph allegedly depicting the rates at which “general mail,” “anonymous mail,” and “advertising mail from known senders” go unread;<sup>3</sup> and (4) a picture of an unaddressed USPS Priority Mail Flat Rate Envelope. Included with the motion was Mr. Mayo’s declaration. In the declaration, Mr. Mayo alleged, *inter alia*, that he did not see the notice of Appellee’s motion to renew the judgment before it was granted because his “personal percentage of opened anonymous mail is zero (0%).”

In response, Appellee argued that the Second Motion to Vacate raised the same grounds and arguments as the First Motion to Vacate and that the trial court previously

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<sup>3</sup> It is unclear if this graph was part of the previous exhibit or if Mr. Mayo created it using information from the previous exhibit.

ruled on these. Appellee further argued that relief from judgment under Tennessee Rule of Civil Procedure 60.02 is “an extraordinary remedy and may not be used as a substitute for appeal,” and that the arguments in the Second Motion to Vacate were barred by *res judicata*.

In reply to Appellee’s response, Mr. Mayo argued that the constitutional issue was “raised in [the] prior motion but not addressed.” Specifically, Mr. Mayo argued:

While [Mr. Mayo] acknowledges that the prior motion included a constitutional challenge to Tennessee Rule of Civil Procedure 69.04, this issue was neither acknowledged nor adjudicated by the [trial c]ourt or even mentioned in the hearing by [Appellee’s] counsel or the [trial c]ourt. If [Appellee’s] counsel had been in attendance, or examined the transcript, then it would be known that . . . no mention of any constitutional issue was even mentioned much less adjudicated.

Mr. Mayo also argued that the Second Motion to Vacate presented new evidence, *i.e.*, the document titled “The Household Diary Study, Mail Use & Attitudes FY 2022” and the corresponding graph.

Concerning the September 19, 2025, hearing on the Second Motion to Vacate, the Statement of the Evidence provides, in pertinent part:

Present at the September 19, 2025 hearing were counsel for Appellee and [Mr. Mayo], pro se. The Court heard argument from both parties. No exhibits were offered into evidence.

[Mr. Mayo] argued he brought the instant motion to raise the constitutionality issue of Tennessee Rule of Civil Procedure 69.04. [Mr. Mayo] asserted that junk mail only gets opened 23% of the time. [Mr. Mayo] cited *Mullane v. Central Hanover Bank & Trust Co.* for the proposition that notice must be reasonably calculated under all the circumstances to apprise all parties. 339 U.S. 306 (1950). [Mr. Mayo] argued service by First-Class Mail may be sufficient to apprise interested parties of the action 23% of the time but is unsuccessful the other 77% of the time. He further argued the issue of unconstitutionality was raised by his first Motion to Vacate but was not addressed at the hearing or in the [c]ourt’s ruling.

Appellee argued these issues were raised in [Mr. Mayo’s] first Motion to Vacate and that the same issues were addressed by this [c]ourt, in that Appellee complied with the statutory requirement of mailing notice of the motion for judgment renewal. Appellee further argue[d] that [Mr. Mayo] has admitted this. Appellee argued that [Mr. Mayo] raised no statement that if

[he] received any other type of notice, he would have raised a valid defense to the judgment at that time. Lastly, Appellee argued it complied with the applicable law and asserted there is no legal basis for vacating the renewed judgment.

In response, [Mr. Mayo] argued that at the July 11, 2025 hearing, he did not contest whether Appellee mailed the First-Class notice to him but did not admit he received the mail. Rather, Appellee argued that he did not receive the notice. He further stated his belief that the original service for the lawsuit was made upon his father, who had the same name, rather than himself. His father is now deceased.

Based on the foregoing, the trial court entered an order denying the Second Motion to Vacate. In the order, the trial court treated the motion as a Rule 60.02 motion and concluded that “the same issues and fact[s] were adjudicated at the July 11, 2025, Motion Hearing.” Accordingly, the trial court concluded that the Second Motion to Vacate was barred by *res judicata*.

Tennessee Rule of Civil Procedure 60.02 provides, in pertinent part:

On motion and upon such terms as are just, the court may relieve a party or the party’s legal representative from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise or excusable neglect; (2) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (3) the judgment is void; (4) the judgment has been satisfied, released or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that a judgment should have prospective application; or (5) any other reason justifying relief from the operation of the judgment.

Tenn. R. Civ. P. 60.02. A Rule 60.02 motion is appropriate when “a party waits to seek relief for more than thirty days after entry of a final judgment[.]” *Discover Bank v. Morgan*, 363 S.W.3d 479, 489 (Tenn. 2012). Given that the First Motion to Vacate was filed eight years after the trial court extended the judgment as well as the facts alleged and the relief requested in the First Motion to Vacate, *i.e.*, “lack of proof of service” and a request that the “claim against [Mr. Mayo] be extinguished,” we also consider the First Motion to Vacate under Rule 60.02. *See Anderson v. DTB Corp.*, No. 89-172-II, 1990 WL 33380, at \*2 (Tenn. Ct. App. Mar. 28, 1990) (stating that courts “give effect to the substance of pleadings and motions rather than to their terminology or form”); *see also* Tenn. R. Civ. P. 8.05, 8.06.

The purpose of Rule 60.02 is “to alleviate the effect of an oppressive or onerous final judgment.” *Henderson v. SAILA, Inc.*, 318 S.W.3d 328, 336 (Tenn. 2010) (quoting

*Black v. Black*, 166 S.W.3d 699, 703 (Tenn. 2005)). The Rule “has been described as an ‘escape valve from possible inequity that might otherwise arise from the unrelenting imposition of the principle of finality imbedded in our procedural rules.’” *Henderson*, 318 S.W.3d at 336 (quoting *Thompson v. Firemen’s Fund Ins. Co.*, 798 S.W.2d 235, 238 (Tenn. 1990)). However, this “escape valve” is not easily opened, and “relief is appropriate only in those relatively few instances that meet the criteria of the [R]ule.” *Henderson*, 318 S.W.3d at 336. Importantly, Rule 60.02 motions are not “mechanism[s] for use by a party who is merely dissatisfied with the result of a particular case.” *Toney v. Mueller Co.*, 810 S.W.2d 145, 146 (Tenn. 1991).

Concerning *res judicata*, the Tennessee Supreme Court has explained that

[t]he doctrine of *res judicata* or claim preclusion bars a second suit between the same parties or their privies on the same claim with respect to all issues ***which were, or could have been, litigated in the former suit.*** *Creech v. Addington*, 281 S.W.3d 363, 376 (Tenn. 2009); *Richardson v. Tennessee Bd. of Dentistry*, 913 S.W.2d 446, 459 (Tenn. 1995) (quoting *Goeke v. Woods*, 777 S.W.2d 347, 349 (Tenn. 1989)). It is a “rule of rest,” *Moulton v. Ford Motor Co.*, 533 S.W.2d 295, 296 (Tenn. 1976), and it promotes finality in litigation, prevents inconsistent or contradictory judgments, conserves judicial resources, and protects litigants from the cost and vexation of multiple lawsuits. *In re Estate of Boote*, 198 S.W.3d 699, 718 (Tenn. Ct. App. 2005); *Sweatt v. Tennessee Dep’t of Corr.*, 88 S.W.3d 567, 570 (Tenn. Ct. App. 2002).

*Jackson v. Smith*, 387 S.W.3d 486, 491 (Tenn. 2012) (emphasis added).

This Court has applied the doctrine of *res judicata* when considering multiple Rule 60.02 motions. In *Lyons v. Leffew*, we concluded that the dispositive issue on appeal was “whether the trial court abused its discretion in denying Plaintiffs’ second Tenn. R. Civ. P. 60.02 motion to set aside the [first order], which denied the first Rule 60.02 motion.” No. M2010-00645-COA-R3CV, 2011 WL 1884591, at \*3 (Tenn. Ct. App. May 17, 2011). We agreed with the trial court’s conclusion that *res judicata* barred review of the issues raised in the second motion because these issues “were previously litigated and an order was entered which had since become a final, non-appealable judgment[.]” *Id.*

On appeal, Mr. Mayo admits that he raised “the constitutional inadequacy of the notice method under the Due Process Clause” in the First Motion to Vacate. He also states that the Second Motion to Vacate “again detailed the constitutional deficiency and presented stronger evidence, including the United States Postal Service 2022 Annual Household Diary Study showing that junk mail is read only 23% of the time (77% unread rate).” In his appellate brief, Mr. Mayo acknowledges that the Statement of the Evidence “confirms that the constitutional claim was raised [at the hearing on the First Motion to

Vacate][,]” but he asserts that it “contains no indication that it was ever briefed, argued on the merits by Appellee, or ruled upon by the [trial] court.” Mr. Mayo argues that “[t]he claim was simply not addressed.” From the foregoing, it appears that part of Mr. Mayo’s argument is that, because Appellee did not brief the constitutional issue or argue it at the hearing, *res judicata* cannot apply. This is misguided. As the party seeking to avoid the judgment, it was Mr. Mayo’s burden to fully brief and present the entirety of his arguments to the trial court in the First Motion to Vacate and at the first hearing. *See Henry v. Goins*, 104 S.W.3d 475, 482 (Tenn. 2003) (explaining that the party seeking relief from a trial court’s judgment bears the burden of proving why he or she is entitled to such relief). How Appellee chose to proceed *in response* to Mr. Mayo’s motion was in Appellee’s discretion and had no effect on how Mr. Mayo presented and argued his issues. Mr. Mayo also argues that, because the trial court’s order denying the First Motion to Vacate was silent as to the constitutional issue, the trial court did not consider it. We disagree. As discussed above, and as he admits, Mr. Mayo raised the constitutional argument in the First Motion to Vacate, and as shown in the Statement of the Evidence, argued it at the first hearing. In the order denying the First Motion to Vacate, the trial court found that there was “no basis” to vacate the judgment. While the trial court did not explicitly address the constitutional argument, clearly it heard it and impliedly concluded that such argument was baseless.

We review a trial court’s denial of a Rule 60.02 motion under an abuse of discretion standard. *Id.* at 479. A trial court abuses its discretion when it uses an incorrect legal standard or reaches a decision against logic or reasoning, which causes an injustice to the complaining party. *Id.* We agree with the trial court that Mr. Mayo’s Second Motion to Vacate was barred by *res judicata*. As Mr. Mayo admits, the Second Motion to Vacate focused on the constitutionality issue, which he previously raised—and had the opportunity to fully litigate—in the First Motion to Vacate and at the first hearing. If Mr. Mayo desired to have the constitutionality issue reviewed for a second time, he could have filed a timely appeal with this Court within 30 days after the trial court’s order denying the First Motion to Vacate, but he did not do so. *See* Tenn. R. App. P. 3, 4(a). Given that we affirm the trial court’s denial of the Second Motion to Vacate due to *res judicata*, all other issues in this appeal are moot.

#### IV. Conclusion

For the foregoing reasons, we affirm the trial court’s order denying the Second Motion to Vacate. Costs of the appeal are assessed to the Appellant, John P. Mayo. Because Mr. Mayo is proceeding *in forma pauperis* in this appeal, execution for costs may issue if necessary.

s/ Valerie L. Smith  
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VALERIE L. SMITH, JUDGE