

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
October 15, 2026

FILED

10/16/2026

Clerk of the
Appellate Courts

**ANDRE LEMAURIO JOHNSON-EL v. CAREN GABRIEL D/B/A FORMER
CEO OF ASCEND FEDERAL CREDIT UNION**

**Appeal from the Chancery Court for Coffee County
No. 2026-CV-25 William A. Lockhart, Judge**

No. M2026-01347-COA-R3-CV

The plaintiff appeals a final order dismissing his complaint. Because the plaintiff did not file his notice of appeal with the Clerk of the Appellate Court within thirty days after entry of the final order as required by Rule 4(a) of the Tennessee Rules of Appellate Procedure, we dismiss the appeal.

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

FRANK G. CLEMENT, JR., C.J., ANDY D. BENNETT and W. NEAL MCBRAYER, JJ.

Andre Lemaudio Johnson-El, Brentwood, Tennessee, pro se.

Matthew Zachary Huffer, Tullahoma, Tennessee, for the appellee, Caren Gabriel.

MEMORANDUM OPINION¹

Plaintiff Andre Lemaudio Johnson-El has filed a notice of appeal from a final order entered on July 8, 2026, dismissing his complaint under Tennessee Rule of Civil Procedure 12.02(6). Tennessee Rule of Appellate Procedure 4(a) requires that a notice of appeal be filed with the clerk of the appellate court within thirty days after entry of the judgment appealed. Mr. Johnson-El did not file his notice of appeal with the appellate court clerk until August 24, 2026, forty-seven days after entry of the judgment.

¹A case designated as a memorandum opinion “shall not be published, and shall not be cited or relied on for any reason in any unrelated case.” Tenn. Ct. App. R. 10.

On September 11, 2026, this Court ordered Mr. Johnson-El to show cause why the appeal should not be dismissed for failure to file a timely notice of appeal. In response, Mr. Johnson-El alleges that he timely mailed a notice of appeal to the appellate court clerk but that the notice was lost in the mail.

Papers filed with the appellate court are considered timely if they “are received by the clerk within the time fixed for filing or mailed to the office of the clerk by certified return receipt mail or registered return receipt mail within the time fixed for filing.” Tenn. R. App. P. 20(a). Filings will also be considered timely if “placed for delivery with computer tracking, either through a commercial delivery service or the United States Postal Service, within the time fixed for filing.” *Id.* A filing sent by regular first-class mail will be considered timely only if it is actually received by the clerk within the time fixed for filing. Here, the notice of appeal was not received by the clerk within the thirty-day time period required by Rule 4(a), and there is no indication that the notice was sent by certified return receipt mail, registered return receipt mail, or a service with computer tracking. Thus, the notice of appeal was not timely filed, and the mailing of the notice of appeal within the thirty-day time period is of no consequence.

Mr. Johnson-El also asserts that he timely filed a notice of appeal with the trial court clerk on July 17, 2026. However, Rule 4(a) requires the notice of appeal to be filed with the appellate court clerk. A notice of appeal filed with the trial court clerk is a nullity. It does not initiate an appeal as of right or extend the time for filing a notice of appeal in this Court.²

The thirty-day time limit for filing a notice of appeal with the Appellate Court Clerk is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This Court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 868 at n.1 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Servs. Corp.*, 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal with the Appellate Court Clerk deprives this Court of jurisdiction to hear the matter. *Flautt & Mann*, 285 S.W.3d at 869 at n.1.

The appeal is dismissed for failure to file a timely notice of appeal. Mr. Johnson-El is taxed with the costs for which execution may issue.

PER CURIAM

² While the 2017 amendment to Rule 4(a) included a one-year transitional provision providing additional time to parties who mistakenly filed a notice of appeal with the trial court clerk, that transitional provision expired in 2018.