

COURT OF APPEALS OF TENNESSEE

Benjamin McCurry v. Agness McCurry

McCurry v. McCurry · No. E2024-00042-COA-R3-CV; E2023-01655-COA-R3-CV · Decided May 29, 2026

SUMMARY

The Tennessee Court of Appeals reviews criminal contempt judgments against Agness McCurry arising from her failure to comply with court orders in a child-custody matter and from her unauthorized recording of court proceedings. The court addresses waiver, the validity and enforceability of the underlying orders, and evidentiary and due-process arguments. The trial court’s contempt findings and related rulings are affirmed, and the case is remanded.

CASE DETAILS

COURT	Court of Appeals of Tennessee
WRITING FOR THE COURT	Kristi M. Davis; John W. McClarty; Thomas R. Frierson, II
JURISDICTION	Tennessee Court of Appeals, at Knoxville
DECIDED	May 29, 2026
DOCKET	E2024-00042-COA-R3-CV; E2023-01655-COA-R3-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Agness McCurry appealed judgments finding her guilty beyond a reasonable doubt of three charges of criminal contempt arising from an ongoing child-custody matter, as well as the denial of her Tennessee Rules of Civil Procedure 59 and 60 post-judgment motion.
STANDARD OF REVIEW	The sufficiency of the evidence supporting criminal contempt is reviewed under Tennessee Rule of Appellate Procedure 13(e): reversal is warranted only when the record and reasonable inferences are legally insufficient for a rational factfinder to find guilt beyond a reasonable doubt. Issues raised for the first time on appeal are waived. Motions under Tennessee Rules of Civil Procedure 59 and 60 are reviewed for abuse of discretion. Judicial-notice rulings are reviewed under Tennessee Rule of Evidence 201.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Agness McCurry v. State of Tennessee

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the criminal contempt findings for failing to contact Teresa Fletcher, failing to provide financial documentation, and recording a hearing without permission were supported by the evidence.
2. Whether McCurry's collateral challenges to the underlying orders established that those orders were unlawful, unclear, or impossible to comply with.
3. Whether McCurry waived her challenge to the recording-related contempt charge by failing to raise the asserted whistleblower and constitutional defenses in the trial court.
4. Whether Judge Wright should have recused himself from the underlying child-custody matter.
5. Whether McCurry was denied due process because she was allegedly unable to call witnesses, present evidence, or prepare for the contempt hearing.
6. Whether the trial court abused its discretion in denying McCurry's Rule 59 and Rule 60 post-judgment motion.
7. Whether the absence of a recording of a February 7, 2023 hearing entitled McCurry to appellate relief or supported a Brady, section 1983, or due-process claim.
8. Whether the Court should take judicial notice of filings from McCurry's separate federal lawsuit.

HOLDINGS

1. The trial court properly found McCurry guilty beyond a reasonable doubt of all three criminal-contempt charges.
2. A facially valid order must be obeyed until it is dissolved or reversed; an alleged error in the order is not a defense to criminal contempt.
3. McCurry willfully violated the order requiring her to contact Fletcher, notwithstanding her claim that Fletcher would not respond.
4. Issues raised for the first time on appeal, including McCurry's asserted whistleblower defense to the recording charge and some recusal and constitutional arguments, were waived.
5. McCurry was not denied due process because the record showed that she was given opportunities to participate, call witnesses, and present evidence but repeatedly and deliberately refused to do so.
6. The trial court did not abuse its discretion in denying McCurry's post-judgment motion, and she was not entitled to a hearing on that motion.
7. The Court could take judicial notice that the proffered documents were filed in federal court, but could not judicially notice the disputed factual allegations contained in those filings.
8. The absence of a recording of the February 7 hearing did not entitle McCurry to appellate relief.

KEY QUOTATIONS

“An order is not rendered void or unlawful simply because it is erroneous or subject to reversal on appeal.”
(13-14)

“Erroneous orders “must be followed until they are reversed.”” (14)

“Whether Ms. Fletcher would have been receptive to this contact by Defendant or responsive to Defendant is of no consequence.” (15)

“Defendant’s argument that she was deprived of the opportunity to call witnesses or present evidence at a hearing during which she overtly, loudly, and repeatedly refused to participate in the proceeding is absurd.”
(17)

FACTUAL BACKGROUND

During an ongoing child-custody matter, the trial court ordered Agness McCurry to contact and cooperate with Teresa Fletcher, LMFT, regarding an assessment of the family and child, and to provide wage statements and tax or income documentation. The court also had a standing order prohibiting possession of electronic recording devices in courtrooms and unauthorized recording of proceedings. McCurry did not contact Fletcher, did not provide the required financial documentation, and made an unauthorized audio recording of a hearing. At the criminal contempt hearing, she repeatedly refused to participate, answer questions, accept exhibits, or present a defense.

PROCEDURAL HISTORY

The Washington County Circuit Court entered orders requiring McCurry to contact and cooperate with a mental-health professional regarding the child and to provide financial documentation. The trial court later found her guilty of criminal contempt for failing to contact the professional, failing to provide financial records, and recording a court proceeding in violation of a standing order; it imposed an aggregate sentence of twenty days. After corrected judgments and denial of post-judgment relief, the Court of Appeals affirmed and remanded for proceedings consistent with its opinion.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case is remanded for proceedings consistent with the opinion. Costs on appeal are assessed to Agness McCurry.

CASES CITED

- Black v. Blount, 938 S.W.2d 394, 399, 403 (Tenn. 1996)
- Robinson v. Air Draulics Eng’g Co., 214 Tenn. 30, 377 S.W.2d 908, 912 (1964)
- Thigpen v. Thigpen, 874 S.W.2d 51, 53 (Tenn. Ct. App. 1993)

- State v. Beeler, 387 S.W.3d 511, 519, 523 (Tenn. 2012)
- Pruitt v. Pruitt, 293 S.W.3d 537, 545 (Tenn. Ct. App. 2009)
- Foster v. Foster, No. M2006-01277-COA-R3-CV, 2007 WL 4530813, at *5 (Tenn. Ct. App. Dec. 20, 2007)
- Konvalinka v. Chattanooga-Hamilton Cnty. Hosp. Auth., 249 S.W.3d 346, 354-56 (Tenn. 2008)
- In re Vanvaver, 12 S.W. 786, 791 (Tenn. 1890)
- Churchwell v. Callens, 252 S.W.2d 131, 136-37 (Tenn. Ct. App. 1952)
- Blair v. Nelson, 67 Tenn. 1, 5 (1874)
- Frye v. Frye, 80 S.W.3d 15, 19 (Tenn. Ct. App. 2002)
- McCurry v. McCurry, No. E2023-00297-COA-T10B-CV, 2023 WL 2591161, at *3-5 (Tenn. Ct. App. Mar. 22, 2023)
- Cook v. State, 606 S.W.3d 247, 254 (Tenn. 2020)
- Bean v. Bailey, 280 S.W.3d 798, 803 (Tenn. 2009)
- State v. Banks, 271 S.W.3d 90, 170 (Tenn. 2008)
- Burris v. Burris, 512 S.W.3d 239, 245 (Tenn. Ct. App. 2017)
- In re M.L.D., 182 S.W.3d 890, 895 (Tenn. Ct. App. 2005)
- Polster v. Polster, No. M2020-01150-COA-R3-CV, 2021 WL 4167927, at *7 (Tenn. Ct. App. Sept. 14, 2021)
- Myers v. Myers, 891 S.W.2d 216, 220 (Tenn. Ct. App. 1994)
- Discover Bank v. Morgan, 363 S.W.3d 479, 487 (Tenn. 2012)
- Savage v. Hildenbrandt, No. M1999-00630-COA-R3-CV, 2001 WL 1013056, at *15 (Tenn. Ct. App. Sept. 6, 2001)
- Custom Built Homes v. G.S. Hinsin Co., No. 01A01-9511-CV-00513, 1998 WL 960287, at *5 (Tenn. Ct. App. Feb. 6, 1998)
- Cain-Swope v. Swope, 523 S.W.3d 79, 89 (Tenn. Ct. App. 2017)
- Groves v. Ernst-W. Corp., No. M2016-01529-COA-T10B-CV, 2016 WL 5181687, at *5 (Tenn. Ct. App. Sept. 16, 2016)
- Cartwright v. Jackson Cap. Partners, Ltd. P'ship, 478 S.W.3d 596, 616 (Tenn. Ct. App. 2015)
- Flowers v. Bd. of Professional Responsibility, 314 S.W.3d 882, 899 n.35 (Tenn. 2010)
- Lovlace v. Copley, 418 S.W.3d 1, 33 n.17 (Tenn. 2013)
- Yebuah v. Ctr. for Urological Treatment, PLC, 624 S.W.3d 481, 491 (Tenn. 2021)
- Brady v. Maryland, 373 U.S. 83 (1963)