

TENNESSEE COURT OF APPEALS

Patrick Michael Wallen v. LC Germantown Owner, LLC

No. M2025-00873-COA-R3-CV · No. M2025-00873-COA-R3-CV · Decided April 14, 2026

SUMMARY

The Tennessee Court of Appeals dismissed Patrick Michael Wallen’s appeal because his notice of appeal was filed after the applicable thirty-day deadline. The court held that Wallen’s second post-judgment motion did not toll the appeal period because it either constituted an unauthorized serial Rule 59.04 motion or was a Rule 60.02 motion filed after the notice of appeal, when the trial court lacked jurisdiction. The court assessed appellate costs against Wallen.

CASE DETAILS

COURT	Tennessee Court of Appeals
WRITING FOR THE COURT	Steven W. Maroney; Kristi M. Davis; Valerie L. Smith
JURISDICTION	Tennessee Court of Appeals
DECIDED	April 14, 2026
DOCKET	M2025-00873-COA-R3-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed as of right from the Davidson County Circuit Court’s dismissal of his claims for malicious prosecution and abuse of process. The Court of Appeals dismissed the appeal for lack of subject-matter jurisdiction because the notice of appeal was filed after the applicable thirty-day deadline.
STANDARD OF REVIEW	The court independently addressed subject-matter jurisdiction and the timeliness of the notice of appeal. Because timely filing of a notice of appeal is mandatory and jurisdictional, the court dismissed without reaching the merits of the issues raised.
PRECEDENTIAL VALUE	Published Tennessee Court of Appeals opinion
PARTIES	Patrick Michael Wallen v. LC Germantown Owner, LLC

TOPICS

- appellate jurisdiction
- subject matter jurisdiction
- final judgment rule
- motion for reconsideration
- appellate procedure

PRACTICE AREAS

appellate procedure

civil procedure

subject-matter jurisdiction

post-judgment motions

QUESTIONS PRESENTED

1. Whether the June 9, 2025 notice of appeal was timely when the circuit court entered its final judgment on March 27, 2025, resolved Wallen's timely first Rule 59.04 motion on April 29, 2025, and Wallen filed a second post-judgment motion on May 22, 2025.
2. Whether the second post-judgment motion was an unauthorized serial Rule 59.04 motion that did not extend the time for appeal.
3. Whether treating the second motion as a Rule 60.02 motion affected the appellate deadline or validated the circuit court's June 13, 2025 order entered after the notice of appeal.

HOLDINGS

1. The June 9, 2025 notice of appeal was untimely. The April 29, 2025 order resolving Wallen's first timely Rule 59.04 motion triggered a new thirty-day appeal period that expired on May 29, 2025.
2. The May 22, 2025 motion, construed as a serial Rule 59.04 motion, did not extend the time for filing the notice of appeal because it merely repeated grounds asserted in Wallen's first Rule 59.04 motion.
3. Treating the May 22 motion as a Rule 60.02 motion did not make the appeal timely. Filing the notice of appeal on June 9 divested the circuit court of subject-matter jurisdiction, rendering its June 13 order void ab initio and ineffective to extend the appeal period.

KEY QUOTATIONS

“the filing of a timely notice of appeal is mandatory and jurisdictional in all civil cases.” (-3)

“Motions to reconsider any of these motions [e.g., Rule 59.04 motions] are not authorized and will not operate to extend the time for appellate proceedings.” (-5)

“Therefore, whether we construe Appellant’s May 22, 2025 motion as a Rule 59.04 or a Rule 60.02 motion, the trial court’s final order, and the order by which the 30-day time period was triggered, is the April 29, 2025 order denying Appellant’s first Rule 59.04 motion” (-8)

FACTUAL BACKGROUND

LC Germantown Owner operated the apartment community where Wallen rented an apartment. The landlord mistakenly refunded Wallen's security deposit and later asserted a contractual claim for repayment; related general-sessions proceedings were dismissed, and the landlord later dismissed its claims in the circuit-court appeal. Wallen then filed claims for malicious prosecution and abuse of process, which the circuit court dismissed on the pleadings.

PROCEDURAL HISTORY

Wallen's claims originated in disputes involving his residential lease and prior general-sessions proceedings. The circuit court granted LC Germantown Owner's Rule 12.03 motion for judgment on the pleadings on March 27,

2025. Wallen timely filed a Rule 59.04 motion, which the circuit court resolved on April 29, 2025, but he did not file his notice of appeal until June 9, 2025. His later May 22 motion did not extend the appellate deadline because it was either an unauthorized serial Rule 59.04 motion or, if treated as a Rule 60.02 motion, was adjudicated after the notice of appeal divested the trial court of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Regions Bank v. Prager, 625 S.W.3d 842, 845 (Tenn. 2021)
- Murray v. Miracle, 457 S.W.3d 399, 402 (Tenn. Ct. App. 2014)
- Young v. Barrow, 130 S.W.3d 59, 62-63 (Tenn. Ct. App. 2003)
- Hessmer v. Hessmer, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003)
- Watson v. City of Jackson, 448 S.W.3d 919, 926 (Tenn. Ct. App. 2014)
- Hutcheson v. Barth, 178 S.W.3d 731, 733 (Tenn. Ct. App. 2005)
- Ball v. McDowell, 288 S.W.3d 833, 836 (Tenn. 2009)
- Binkley v. Medling, 117 S.W.3d 252, 255 (Tenn. 2003)
- Tennessee Farmers Mutual Insurance Co. v. Farmer, 970 S.W.2d 453, 454 (Tenn. 1998)
- Dunlap v. Dunlap, 996 S.W.2d 803, 812 (Tenn. Ct. App. 1998)
- Henry v. Goins, 104 S.W.3d 475, 479 (Tenn. 2003)
- Gassaway v. Pattye, 604 S.W.2d 60, 60 (Tenn. Ct. App. 1980)
- Albert v. Fry, 145 S.W.3d 526, 526 (Tenn. 2004)
- Savage v. Hildenbrandt, No. M1999-00630-COA-R3-CV, 2001 WL 1013056, at *8 (Tenn. Ct. App. Sept. 6, 2001)
- Brenneman v. Brenneman, No. M2000-00890-COA-R3-CV, 2001 WL 543434, at *3 (Tenn. Ct. App. May 23, 2001)
- Graybeal v. Sherod, No. E2011-01825-COA-R3-CV, 2012 WL 4459807, at *10 (Tenn. Ct. App. Sept. 27, 2012)
- Barnes v. Barnes, No. M2012-02085-COA-R3-CV, 2014 WL 1413931, at *3-4 (Tenn. Ct. App. Apr. 10, 2014)
- Discover Bank v. Morgan, 363 S.W.3d 479, 489 (Tenn. 2012)
- Born Again Church and Christian Outreach Ministries, Inc. v. Myler Church Building Systems of the Midsouth, Inc., 266 S.W.3d 421, 425-26 (Tenn. Ct. App. 2007)
- Earls v. Earls, No. M1999-00035-COA-R3-CV, 2001 WL 504905, at *3 (Tenn. Ct. App. May 14, 2001)
- First American Trust Co. v. Franklin-Murray Development Co., LP, 59 S.W.3d 135, 140 (Tenn. Ct. App. 2001)
- State v. Snowden, No. W2005-01851-CCA-R3-CD, 2006 WL 1303946, at *2 (Tenn. Crim. App. 2006)
- State v. Armstrong, 126 S.W.3d 908, 912 (Tenn. 2003)
- State v. Irwin, 962 S.W.2d 477, 479 (Tenn. 1998)

- State v. Pendergrass, 937 S.W.2d 834, 837-38 (Tenn. 1996)
- State v. Ogle, No. E2000-00421-CCA-R3-CD, 2001 WL 38755, at *4 (Tenn. Crim. App. Jan. 17, 2001)
- State v. Peele, 58 S.W.3d 701, 704 (Tenn. 2001)
- Spence v. Allstate Insurance Co., 883 S.W.2d 586, 595 (Tenn. 1994)
- City of Memphis v. Civil Service Commission of the City of Memphis, No. W2002-01556-COA-R3-CV, 2003 WL 22204496, at *2 (Tenn. Ct. App. Sept. 15, 2003)
- Moore v. Teddleton, No. W2005-02746-COA-R3-CV, 2006 WL 3199273, at *4 (Tenn. Ct. App. Nov. 7, 2006)

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