

2019 IL App (1st) 180339-U

No. 1-18-0339

Order filed May 17, 2019

Fifth Division

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

PARIS CRAIG,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	No. 17 CH 1869
ILLINOIS DEPARTMENT OF CHILDREN AND)	
FAMILY SERVICES, BEVERLY J. WALKER ACTING)	
DIRECTOR,)	Honorable
)	Raymond W. Mitchell,
Defendants-Appellees.)	Judge, presiding.

JUSTICE HALL delivered the judgment of the court.
Justices Hoffman and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held:* Appeal dismissed for lack of appellate jurisdiction, where plaintiff failed to file a timely notice of appeal or a timely motion for late notice of appeal.

¶ 2 Plaintiff Paris Craig appeals, *pro se*, from a December 28, 2017, circuit court order affirming defendants' the Department of Children and Family Services and the acting director Beverly Walker (collectively DCFS) denial of his request to have three minor children placed in

the custody of a relative of plaintiff. We dismiss for lack of jurisdiction because plaintiff failed to file a timely notice of appeal or a timely motion for a late notice of appeal.

¶ 3 The record at bar, which does not include a report of proceedings, shows that on February 12, 2016, plaintiff's parental rights for three minor children were terminated by the Circuit Court of Winnebago County. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) (It is the appellant's burden to furnish this court with a sufficiently complete record and any doubts arising from an incomplete record must be resolved against the appellant.). Plaintiff filed a service appeal to DCFS asking that the children be placed with their grandmother. On January 27, 2017, an administrative law judge entered a final administrative decision denying plaintiff's request because his parental rights had been terminated and he did not have standing.

¶ 4 On February 7, 2017, plaintiff filed a complaint in the Circuit Court of Cook County seeking review of the dismissal. On December 28, 2017, the circuit court issued a final order disposing of the case in its entirety, affirming the administrative decision.

¶ 5 On February 15, 2018, plaintiff filed a *pro se* notice of appeal from the trial court's December 28, 2017, order. On June 25, 2018, this court granted DCFS's motion to dismiss plaintiff's appeal for lack of jurisdiction.

¶ 6 On July 7, 2018, plaintiff filed a petition for rehearing arguing, among other things, that he was not aware of DCFS's motion and he did not have knowledge to "fight the motion (to dismiss)." On July 18, 2018, we granted plaintiff's motion for rehearing and allowed him to file his brief by August 24, 2018.

¶ 7 On July 27, 2018, DCFS filed an answer to plaintiff's petition for rehearing arguing that the jurisdictional issue was not addressed in this court's July 18 order. Plaintiff responded and, on August 1, 2018, we denied DCFS's answer as moot.

¶ 8 In this court, plaintiff has filed a *pro se* appellate brief and a common law record without a report of proceedings. In his brief, plaintiff alleges that the trial court erred in affirming the administrative law court's ruling denying his request to have three minor children placed in the custody of a relative. DCFS responds that we do not have jurisdiction because plaintiff did not file a timely notice of appeal. We agree with DCFS.

¶ 9 This court has an independent duty to consider whether or not it has jurisdiction to hear an appeal. *Daewoo International v. Monteiro*, 2014 IL App (1st) 140573, ¶ 72; see also *People v. Lewis*, 234 Ill. 2d 32, 36-7 (2009) (subject matter jurisdiction is a threshold issue and "courts of review have an independent duty to consider [their own subject matter] jurisdiction"). Our supreme court has stated that the ascertainment of a court's own jurisdiction is one of the "most important tasks of an appellate court panel when beginning the review of a case." *People v. Smith*, 228 Ill. 2d 95, 106 (2008); *Secura Insurance Co. v. Illinois Farmers Insurance Co.*, 232 Ill. 2d 209, 213 (2009) ("A reviewing court must ascertain its jurisdiction before proceeding in a cause of action").

¶ 10 Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) provides that "[e]very final judgment of a circuit court in a civil case is appealable." "An order is final and thus appealable if it either terminates the litigation between the parties on the merits or disposes of the rights of the parties, either on the entire controversy or a separate branch thereof." *Bankfinancial, FSB v. Tandon*, 2013 IL App (1st) 113152, ¶ 18 (citing, *Wilson v. Edward Hospital*, 2012 IL 112898, ¶ 19).

¶ 11 The order plaintiff is appealing from issued on December 28, 2017, and concluded with “[T]his is a final order which disposes of this case in its entirety.” Plaintiff filed a *pro se* notice of appeal on February 15, 2018.

¶ 12 Under Illinois Supreme Court Rule 303(a), the appellant must file a notice of appeal with the clerk of the circuit court within 30 days after entry of the final judgment appealed from, or if a timely postjudgment motion against the judgment has been filed, the appellant must file a notice of appeal within 30 days from the entry of the order disposing of the last postjudgment motion. Ill. Sup. Ct. R. 303(a) (eff. Jan. 1, 2015). The trial court retains its jurisdiction for 30 days after the final judgment has been entered unless a motion challenging the judgment has been timely filed. *Twardowski v. Holiday Hospitality Franchising Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶ 13 Supreme Court Rule 303(d) gives an appellant an additional 30 days in which to file a notice of appeal where he has shown a reasonable excuse for his failure to file a timely notice of appeal. Ill. S. Ct. R. 303(d) (eff. Jan. 1, 2015).

¶ 14 Here, since plaintiff did not file a timely postjudgment motion and he did not file an extension of time to file a late notice of appeal—his notice of appeal was due on January 28, 2018. However, plaintiff filed his *pro se* notice of appeal on February 15, 2018, 18 days late. Under these circumstances, plaintiff has failed to comply with the timing requirements of Rule 303.

¶ 15 It has been held that compliance with Rules 303(a) and 303(d) is mandatory and jurisdictional. *Gaynor v. Walsh*, 219 Ill. App. 3d 996, 1004 (1991) (finding that the appellate court lacked the power to grant a motion for leave to file a late notice of appeal after the time for

filing such a motion had expired). Our Supreme Court requires strict compliance with its rules governing the time limits for filing a notice of appeal and neither a circuit court, nor an appellate court has the authority to excuse compliance with the filing requirements mandated by Supreme Court Rules. *Dus v. Provena Saint Mary's Hospital*, 2012, IL App (3d) 091064, ¶ 10. When an appeal is not timely filed under Supreme Court Rules, the appellate court has no discretion to take any action other than dismissing that appeal. *People v. Lyles*, 217 Ill. 2d 210, 217 (2005). Accordingly, we conclude that we lack jurisdiction over defendant's untimely appeal.

¶ 16 For the reasons stated, we dismiss plaintiff's appeal for lack of jurisdiction.

¶ 17 Appeal dismissed.