Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0991-MR

MARY M. CRUSH — APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE SUSAN SCHULTZ GIBSON, JUDGE
ACTION NO. 24-CI-004128

CAPITAL ONE, N.A., SUCCESSOR
BY MERGER TO DISCOVER BANK — APPELLEE

ORDER
DISMISSING

* * * * * *

BEFORE: CETRULO, A. JONES, AND KAREM, JUDGES.

This action is before the Court on Appellant's failure to respond to this Court's August 26, 2026, order to show cause why this appeal should not be dismissed as untimely or, alternatively, why the circuit court's "failure to rule" should not be excluded from the issues to be considered in this appeal.

On July 2, 2026, the circuit court entered a final judgment in favor of Appellee. On July 28, 2026, Appellant, *pro se*, tendered a notice of appeal.

However, Appellant did not file a motion to proceed *in forma pauperis* or pay the required filing fee when she tendered the notice of appeal. Appellant later paid the filing fee on August 10, 2026, at which time her notice of appeal was filed. On August 26, 2026, this Court entered an order to show cause as to why this appeal should not be dismissed for an untimely notice of appeal. Appellant has filed no response to this order.

A notice of appeal must be filed within 30 days "from the date of notation of service of the judgment or order appealed from." Kentucky Rule of Appellate Procedure (RAP) 3(A)(1). "The timely filing of a notice of appeal is jurisdictional." RAP 2(A)(2). "The failure of a party to file timely a notice of appeal … shall result in a dismissal" of the appeal. RAP 2(A)(3). While Appellant's notice of appeal was tendered within the 30-day period, RAP 2(I) states that "[a]t the time the notice of appeal is tendered, the appellant shall pay all required fees to the clerk of the court from which [the] appeal is taken, and the notice shall not be docketed or noted as filed until such payment is made." By the time Appellant paid the filing fee, the time to file a notice of appeal had passed. RAP 3(A)(1) requires that a notice of appeal be filed within 30 days of the judgment being appeal from and Appellant's notice of appeal was filed after this time.

Having reviewed the record and being otherwise sufficiently advised; the Court FINDS Appellant has FAILED TO SHOW SUFFICIENT CAUSE as to why the above-styled appeal should not be dismissed. The Court ORDERS that the appeal shall be, and is hereby, DISMISSED as untimely.

ENTERED: 11/12/2026



HON. ALLISON E. JONES
JUDGE, COURT OF APPEALS