

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2006 CJ 0916

IN RE: N.W. APPLYING FOR INTRAFAMILY ADOPTION
OF M.C.H. AND M.P.H.

JMM

JUDGMENT RENDERED: SEP 15 2006

ON APPEAL FROM THE
JUVENILE COURT
DOCKET NUMBER 9110, DIVISION A
PARISH OF EAST BATON ROUGE, STATE OF LOUISIANA

HONORABLE KATHLEEN STEWART RICHEY

IN PROPER PERSON
GUNNISON, UT

STEVE LEBLANC
BATON ROUGE, LA

ANITA R. WHITE,
BATON ROUGE, LA

DEFENDANT/APPELLANT
S.H.

COUNSEL FOR PLAINTIFF/APPELLEE
N.W.

COUNSEL FOR THE CHILDREN,
M.C.H. AND M.P.H.

BEFORE: CARTER, C.J., WHIPPLE AND MCDONALD, JJ.

*Carter, J. Carter
Whipple, J. concurs*

MCDONALD, J.

In this case N.W., the husband of A.H.W., filed a petition to adopt his two minor stepchildren, ten-year old M.C.H., and nine-year old M.P.H., the daughter and son of A.H.W. and S.H.

A.H.W. and S.H.'s first child, M.C.H., was born prior to their marriage, and their second child, M.P.H., was born during the marriage. A.H.W. filed a written consent to the adoption of her children by N.W.

S.H. filed an objection to the adoption petition. S.H. is currently serving an enhanced prison sentence of 6 years-to-life in Utah after being convicted of aggravated burglary for breaking into A.H.W.'s home and beating her with a baseball bat. This incident occurred when S.H. and A.H.W. were separated and living in Utah.

After a trial on the merits, the juvenile court ruled in favor of N.W., granting the adoption. Judgment was signed on February 13, 2006 and mailed to all parties on February 14, 2006.

On April 5, 2006, S.H. filed a motion for appeal, beyond the 30-day appeal period provided by La. Ch.C.art. 1259. On May 30, 2006, this court ordered that the parties show cause by briefs, on or before June 19, 2006, why the appeal should or should not be dismissed. On June 21, 2006, S.H.'s brief was filed, asserting that the judgment was mailed to his caseworker, Joe Jensen, delaying his actual possession of the judgment, and that he did not receive a copy of the judgment until the beginning of March 2006. He asserted that he has no access to a law library or legal assistance, and that his notice of intent to appeal the verdict [sic] was mailed on March 22, 2006. N.W. also filed a brief, asserting that the appeal should be dismissed as untimely.

Louisiana Children's Code article 1259 provides:

A. Any party to the proceedings or any other party in interest shall have the right to appeal a judgment granting or refusing to grant an interlocutory or final decree regarding any type of adoption within thirty days after the rendition of a judgment or decree.

B. If no appeal is perfected within thirty days after a judgment is rendered, the judgment shall be final.

In this case, S.H. had until approximately March 16, 2006, or thirty days after the February 13, 2006 judgment, to file his appeal. His motion for appeal was filed on April 5, 2006, nearly three weeks past the thirty-day deadline. Considering that he admits to receiving the judgment in early March, he waited nearly three weeks to mail his notice of appeal on March 22, 2006.

Louisiana Children's Code art. 1259 does not provide any exceptions to the requirement of a timely-filed appeal, and S.H. has provided no proof of the date he received the judgment. Thus, his appeal is dismissed.¹ S.H. is cast with costs.

APPEAL DISMISSED.

¹ See **In re Miller**, 95-1051 (La. App. 1 Cir. 12/15/95), 665 So.2d 774, 776, writ denied, 667 So.2d 541 (La. 2/9/06); **Adoption of C.C.B. v. Hebert**, 566 So.2d 1051, 1052 (La. App. 3 Cir.), writ granted, 567 So.2d 1108 (La. 1990) (remanded for opinion on other grounds); **In re Adoption of Lemoine**, 146 So.2d 12, 13 (La. App. 4 Cir. 1962).