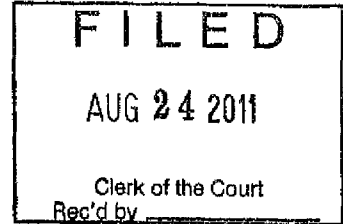


IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

**BARBARA SIMS ARTHUR v. BOARD OF PROFESSIONAL
RESPONSIBILITY OF THE SUPREME COURT OF TENNESSEE**

**Direct Appeal from the Chancery Court for Hamilton County
No. 10-0908 Walter C. Kurtz, Senior Judge**

No. E2011-00717-SC-R3-BP



ORDER

On August 31, 2010, a Hearing Panel of the Board of Professional Responsibility entered a judgment finding that attorney Barbara Sims Arthur committed disciplinary misconduct and suspending her license to practice law for eighteen months, with six months of active suspension and the remainder on probation. The Hearing Panel also required Ms. Arthur to engage a practice monitor during the probationary period and to remain compliant with licensing requirements.

On October 25, 2010, Ms. Arthur sought to appeal the Hearing Panel's judgment pursuant to Tennessee Supreme Court Rule 9, section 1.3, which provides that parties dissatisfied with the decision of a Hearing Panel may obtain judicial review by filing a petition for writ of certiorari in accordance with Tennessee Code Annotated sections 27-9-101 through -114 (2000 & Supp. 2010). Furthermore, Tennessee Code Annotated section 27-9-102 (2000) states that a petition for writ of certiorari shall be filed "within sixty (60) days of the entry of the order or judgment" from which review is sought. And Tennessee Code Annotated section 27-8-106 (2000) requires that a petition for a writ of certiorari be "sworn to" and state that "it is the first application for the writ." The failure to satisfy these requirements deprives trial courts of jurisdiction to review a Hearing Panel's decision. Bd. of Prof'l Responsibility v. Cawood, 330 S.W.3d 608, 609 (Tenn. 2010).

Ms. Arthur's October 25, 2010 petition was not sworn and failed to state that it was the first application for the writ. On February 2, 2011, after the expiration of the sixty-day period provided by Tennessee Code Annotated section 27-9-102 for filing petitions for certiorari, Ms. Arthur filed a motion to amend, seeking to add a verification and a statement that the petition was the first application for the writ. On February 8, 2011, the Board filed a response in opposition to the motion to amend and a motion to dismiss for lack of subject matter jurisdiction.

On February 22, 2011, the trial judge denied the motion to amend because it was filed beyond the statutory sixty-day time period and dismissed Ms. Arthur's appeal based on Cawood, for lack of subject matter jurisdiction. On March 21, 2011, Ms. Arthur filed a notice of appeal, and on July 18, 2011, the technical record and transcripts were filed with the Appellate Court Clerk's Office.

On July 29, 2011, the Board of Professional Responsibility filed a motion to dismiss for lack of subject matter jurisdiction based on Cawood. On August 10, 2011, Ms. Arthur filed a response in opposition to the motion. Ms. Arthur argues that the Board is asking the Court to abdicate its responsibility to review the trial court's decision. Ms. Arthur further argues that despite the defective petition, this Court possesses subject matter jurisdiction pursuant to Article VI, section 1 of the Tennessee Constitution¹ and Tennessee Code Annotated section 16-3-201(b) (2009).² Ms. Arthur also asserts that the trial court erred by denying her motion to amend because Tennessee Rule of Civil Procedure 15.03 entitles her to amend the petition and relates the amendment back to the date of the filing of the original petition.

Upon due consideration of the Board's motion to dismiss, Ms. Arthur's response, and the record filed in this Court, we conclude that the trial court correctly denied Ms. Arthur's motion to amend because it was filed beyond the statutory sixty-day period. See Blair v. Tenn. Bd. of Prob., 246 S.W.3d 38, 41 (Tenn. Ct. App. 2007). Ms. Arthur's October 25, 2010 petition for writ of certiorari failed to satisfy the requirements of Tennessee Code Annotated section 27-8-106 (2000); therefore, this petition was insufficient to confer jurisdiction upon the trial court. Cawood, 330 S.W.3d at 609. Because the trial court lacked jurisdiction to review the Hearing Panel's decision, this Court also lacks jurisdiction to review the Hearing Panel's decision.

Accordingly, the Board's motion to dismiss Ms. Arthur's appeal is GRANTED. Because the sanction imposed by the Hearing Panel exceeds a three-month suspension and because no appeal was properly perfected, the Board is directed to file a copy of the Hearing

¹Article VI, section 1 provides:

The judicial power of this State shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish; in the Judges thereof, and in Justices of the Peace. The Legislature may also vest such jurisdiction in the Corporation Courts as may be deemed necessary. Courts to be holden by Justices of the Peace may also be established.

²Section 16-3-201(b) states:

The [Supreme] court has no original jurisdiction, but appeals and writs of error, or other proceedings for the correction of errors, lie from the inferior courts and court of appeals, within each division, to the [S]upreme court as provided by this code.

Panel's order for review by this Court in accordance with Tennessee Supreme Court Rule 9, section 8.4.

The costs of this appeal are taxed to Ms. Arthur, and her surety, for which execution, if necessary, may issue.

PER CURIAM