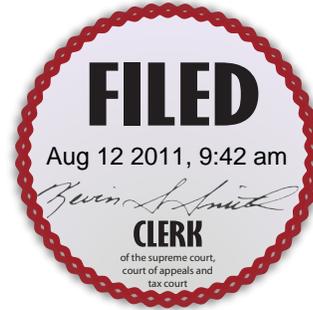


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

B.R.S.
Pendleton, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

IN THE MATTER OF THE PATERNITY OF)
C.L.P., Minor Child,)
)
B.R.S., Father,)
)
Appellant-Petitioner,)
)
vs.)
)
J.P., Mother,)
)
Appellee-Respondent,)

No. 90A02-1102-JP-92

APPEAL FROM THE WELLS CIRCUIT COURT
The Honorable David L. Hanselman, Sr., Judge
Cause No. 90C01-0409-JP-48

August 12, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

B.S. (Father) appeals the denial of his petition to modify custody. Because his notice of appeal was not filed within thirty days of the trial court's judgment, we lack jurisdiction and dismiss *sua sponte*.

FACTS AND PROCEDURAL HISTORY

On July 29, 2009, Father filed an "Application to Modify Visitation." (App. at 17.) On September 16, 2010, Father also filed a "Petition to Clarify Decree as to Visitation." (*Id.* at 23.) On November 1, after a hearing, the trial court denied both.

Father filed a notice of appeal, and the file stamp thereon indicates it was filed on February 4, 2011. However, on February 4, 2011, the Clerk of the Wells Circuit Court indicated in the Chronological Case Summary: "Notice of Appeal From Trial Court filed *nunc pro tunc* as of December 2, 2010."¹ (Notice of Completion of Clerk's Record at 10).

DISCUSSION AND DECISION

Father proceeds in this appeal *pro se*. It is well settled that *pro se* litigants are held to the same standards as lawyers, including conformance with the Indiana Rules of Appellate Procedure. *Goossens v. Goossens*, 829 N.E.2d 36, 43 (Ind. Ct. App. 2005).

Appellate Rule 9 requires a party to initiate an appeal "by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a Final Judgment is noted in the Chronological Case Summary." The timely filing of a notice of appeal is "a jurisdictional prerequisite and failure to conform to the applicable time limits results in forfeiture of the

¹ A *nunc pro tunc* order is "an entry made now of something which was actually previously done, to have effect as of the former date." *Brimhall v. Brewster*, 835 N.E.2d 593, 597 (Ind. Ct. App. 2005), *reh'g denied, trans. denied*.

appeal.” *Trinity Baptist Church v. Howard*, 869 N.E.2d 1225, 1227 (Ind. Ct. App. 2007), *trans. denied*; *see also* App. R. 9(A)(5) (“Unless the Notice of Appeal is timely filed, the right to appeal shall be forfeited except as provided by P.C.R. 2.”).

The trial court denied B.S.’s request for modification of child custody and his request for clarification of the original custody order on November 1, 2010, so his Notice of Appeal was due December 1. The trial court ordered his notice filed *nunc pro tunc* as of December 2, which was one day after the deadline. As timely filing is a jurisdictional prerequisite, we do not have jurisdiction over B.S.’s appeal and accordingly dismiss. *See Marchand v. Rev. Bd. of Ind. Dept. of Workforce Dev.*, 905 N.E.2d 435, 439 (Ind. Ct. App. 2009) (dismissing for untimely notice of appeal).

Dismissed.

RILEY, J., and NAJAM, J., concur.