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**APPENDIX A**

FILED

10/03/2025

Clerk of the

Appellate Courts

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE

**BOBBY MACBRYAN GREEN v. MICHAEL JOHN  
MAY, ET AL.**

**Circuit Court for Washington County  
No. 24263**

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**No. E2024-00419-SC-R11-CV**

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**ORDER**

On September 11, 2025, Bobby MacBryan Green, proceeding *pro se*, filed a "Motion to Compel the Clerk to File the Application for Permission to Appeal and to Preserve the Record" seeking review of the Court of Appeals' July 9, 2025 order denying his motion to recall the mandate and to vacate the judgment and opinion entered on August 27, 2025 [sic]. Upon due consideration, it is ORDERED that the motion is DENIED.

**PER CURIAM**

**APPENDIX B**

FILED

07/09/2025

Clerk of the

Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE

**BOBBY MACBRYAN GREEN v. MICHAEL JOHN  
MAY, ET AL.**

**Circuit Court for Washington County  
No. 24263**

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**No. E2024-00419-COA-R3-CV**

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**ORDER**

On August 27, 2024, this Court entered its opinion and judgment affirming the trial court's February 20, 2024 judgment, finding the appeal to be frivolous, and remanding the case to the trial court for an award of attorney's fees and expenses. The Supreme Court denied the appellant's application for permission to appeal under Tennessee Rule of Appellate Procedure 11, and this Court's mandate issued on January 24, 2025. The appellant, Bobby MacBryan Green, has now moved to recall the mandate and to vacate our opinion and judgment.

Tennessee Rule of Appellate Procedure 42 contemplates the Court recalling its mandate only under

certain limited circumstances. None of those circumstances are present in this case. Moreover, Mr. Green's motion fails to demonstrate good cause to vacate our opinion and judgment. Mr. Green asserts the trial court's February 20, 2024 judgment was not properly entered under Tennessee Rule of Civil Procedure 58 because the certificate of service was signed by the trial judge's administrative assistant rather than the trial court clerk.<sup>1</sup> Because the judgment appealed was not effectively entered, Mr. Green contends this Court's opinion and judgment are also void.

The Supreme Court has held that relief from a void judgment should be denied where the party seeking relief, after having had actual notice of the judgment, manifested an intention to treat the judgment as valid and where granting the relief would impair another person's substantial interest of reliance on the judgment. *Turner v. Turner*, 473 S.W.3d 257, 280 (Tenn. 2015). Here, Mr. Green does not dispute that he received timely notice of the trial court's February 20, 2024 judgment. Indeed, he filed a timely appeal from that judgment. Nor did he contest the validity of the trial court's judgement [sic] on appeal. Rather, he treated the judgment as properly entered and challenged it on its merits, only raising the question of its ineffective entry under Rule 58 after losing the appeal on the merits. Also, the appellee, Daniel Anthony, has relied on the validity of the judgment throughout the appeal and on remand.

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<sup>1</sup> On April 25, 2025, the trial court attempted to correct the error and directed the trial court clerk to refile the February 20, 2024 judgment with a new certificate of service that complies with Rule 58.

Under these unique circumstances, we decline to recall the mandate or to vacate our opinion and judgment.

Mr. Anthony has requested an award of attorney's fees for responding to the motion under Tennessee Code Annotated § 27-1-122 and the imposition of filing restrictions on Mr. Green. Upon consideration of the matter, we decline to award attorney's fees related to the motion or to impose filing restrictions.

It is, therefore, ordered that Mr. Green's Motion to Recall the Mandate and to Vacate the Judgment and Opinion is denied. Mr. Anthony's request for attorney's fees and filing restrictions is also denied.

PER CURIAM

## APPENDIX C

### IN THE CIRCUIT COURT FOR WASHINGTON COUNTY AT JONESBOROUGH, TENNESSEE

BOBBY MACBRYAN GREEN,  
Plaintiff,

v.

MICHAEL JOHN MAY, his heirs,  
successors & assigns,

Defendant.

Filed 25<sup>th</sup> day of

April 2025 at

2:15 o'clock pm.

Civil Action No.: 24263

Brenda Downes, Clerk

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### MEMORANDUM OPINION AND ORDER

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This cause came before the Court on April 23, 2025, upon the "Motion to Set Aside facially Void Order," and subsequently filed "Amendment to Motion," filed by the plaintiff, Bobby M. Green, and the Response thereto filed by non-party, Daniel Anthony. In addition, Mr. Anthony filed a "Motion for Attorney Fees," and defendant Michael May filed a Motion for Rule 11 Sanctions.

The primary issue before the Court involves whether this Court's February 20, 2024, "Order Denying Plaintiff's Motion and Dismissing Case" was an "effective," final order within the meaning of Rule 58, Tennessee Rules of Civil Procedure, and if not, whether the plaintiff is entitled to relief from that judgment, under Rule 60 *T.R.Civ.P.*

The February 20, 2024, Order addressed the

Court's decision with regard to Mr. Green's "Motion for Joinder," seeking to add Mr. Anthony as a party to litigation that had ended over ten (10) years prior. The Order was filed with the Circuit Court Clerk on February 20, 2024, and contained the following "Certificate of Service" [image approximated]

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing document has been sent to all parties or their attorneys of record in the manner prescribed by Rule 58, Tennessee Rules of Civil Procedure, as indicated below, on this the 20th day of February, 2024:

      By sending through the United States  
Postal Service, addressed to:

      By sending via facsimile to:

      By sending via electronic mail to:

                  Bobby MacBryan Green  
                  macbryangreen@gmail.com

                  Colin M. Wyvill  
                  cwyvill@hsdlaw.com

                  Daniel Anthony  
                  lawdawg451@gmail.com

      By hand delivery to council of record at  
the following address:

J. EDDIE LAUDERBACK, Circuit Court Judge  
By \_\_\_\_\_

It was signed by Debra L. McKee, the Administrative Assistant to the undersigned judge.

Mr. Green, within the applicable time of the Tennessee Rules of Appellate Procedure, filed his Notice of Appeal to the Court of Appeals, which issued

an opinion on August 27, 2024, affirming "the trial court in all respects." In addition, the Court of Appeals found the appeal "devoid of merit, and therefore, frivolous," and remanded the case to the trial court for determination of the reasonable and necessary attorney's fees and expenses to be awarded to Mr. Anthony, a non-party. Mr. Green sought permission to appeal to the Tennessee Supreme Court, which was denied by Order dated January 23, 2025.

Shortly thereafter, on March 6, 2025, Mr. Green filed the subject motion to address whether the February 20, 2024, Order had been properly filed and was a final Order under Rule 58, *T.R.Civ.P.*, and whether he was entitled to relief from that judgment under Rule 60, *T.R.Civ.P.*

Tennessee Rules of Civil Procedure, Rule 58, governing judgments, states as follows:

"Entry of a judgment or an order of final disposition is effective when a judgment containing one of the following is marked on the face by the clerk as filed for entry:

- (1) The signatures of the judge and all parties or counsel, or
- (2) The signatures of the judge and one party or counsel with a certificate of counsel that a copy of the proposed order has been served on all other parties or counsel, or
- (3) The signature of the judge and a certificate of the clerk that a copy has been served on all other parties or counsel. Following entry of judgment the clerk

shall make appropriate docket notations and shall copy the judgment on the minutes, but failure to do so will not affect validity of the entry of judgment. When requested by counsel or pro se parties, the clerk shall forthwith mail or deliver a copy of the entered judgment to all parties or counsel."

Having reviewed numerous cases addressing the requirements of Rule 58, this Court concludes that "compliance with Rule 58 is mandatory." Wallace v. City of Lewisburg, 2019 WL 2184981, filed May 7, 2019, (Court of Appeals at Nashville). See also: State ex rel. Taylor v. Taylor, 2006 WL 618291, at \*2 (Tenn. Ct. App. Mar. 13, 2006), holding that

"the failure to adhere to the requirements set forth in Rule 58 prevents a court's order or judgment from becoming effective."

"This means that an order that does not comply with Rule 58 'is not a final judgment and is ineffective as the basis for any action for which a final judgment is a condition precedent,'" Wallace, supra, at \*2, citing Citizens of Blount County v. Myers, 1992 WL 60883, at \*3 (Tenn. Ct. App. Mar. 30 1992).

The Court further concludes and finds that its order dated February 20, 2024, contained a clerical mistake and did not comply with the requirements of Rule 58, because it did not strictly meet one of the three (3) subsections of Rule 58. Though it contained a certificate of service, it was not signed by the Circuit Court Clerk. Neither Rule 58, the advisory comments to the Rule, nor the cases interpreting that rule, allow for "substantial compliance" to satisfy the

strictures of Rule 58. This Court's February 20, 2024, order does not contain the signature of a party, counsel or clerk, and without at least one of those signatures, the Court must find that its February 20, 2024, order was not effective within the meaning of Rule 58 and was not a "final" order.

As stated, plaintiff's motion is based upon Rules 58 and 60 of the Tennessee Rules of Civil Procedure. Rule 60.01 deals with clerical mistakes in judgments, which may be corrected by the Court at any time on its own initiative or on motion of any party. Rule 60.02 deals with relief from a judgment based upon (1) mistake, inadvertence, surprise or excusable neglect; (2) fraud, misrepresentation, or other misconduct of an adverse party; (3) when the judgment is void; (4) when the judgment has been satisfied, released or discharged; or (5) any other reason justifying relief from the operation of the judgment.

The Court does not find that Rule 60.02 offers the plaintiff any basis for relief. However, having found that the February 20, 2024, order does not comply with the requirements of Rule 58, the Court finds the attempted "Certificate of Service" on the February 20, 2024, order to be a "clerical mistake" and, therefore, grants relief to the plaintiff under Rule 60.01, and will **ORDER** the setting aside of and re-entry by the clerk of the February 20, 2024, order.

This ruling, therefore, creates additional issues because, as stated previously, the matter proceeded to the Court of Appeals. Mr. Green did not raise the issue of the ineffectiveness of the February 20, 2024, Order before the Court of Appeals, nor was it addressed by the Court of Appeals in their decision. However, the Court of Appeals and Supreme Court of this state have held in numerous, numerous decisions that if an order appealed from is not a final

judgment, it does not have subject matter jurisdiction, (See: In Re Estate of Henderson, 121 S.W.3d 643, 645 (Tenn. 2003)), and subject matter jurisdiction is not waivable. "The parties cannot confer subject matter jurisdiction on a trial or on an appellate court by appearance, plea, consent, silence, or waiver." State ex rel. Dep't. of Soc. Servs. v. Wright, 736 S.W.2d 84, 85 n. 2 (Tenn. 1987).

Unfortunately, this Court has no authority to overturn an appellate opinion. Therefore, it must follow the mandate of the Court of Appeals filed January 30, 2025, to award Mr. Anthony his "reasonable and necessary attorney's fees."

Plaintiff's motion to set aside the effective filing date of the February 20, 2024, order is **GRANTED**. The Court hereby directs the Circuit Court Clerk to re-file the February 20, 2024, order effective immediately, and attach the Clerk's own Certificate of Service, mailing a copy of the newly entered February 20, 2024, order to (1) Mr. Bobby Green, (2) Mr. Colin Wyvill, counsel for Daniel Anthony, and (3) Mr. Thomas Scott, counsel for Michael May.

This matter is reset for hearing on Monday, June 2, 2025, at 1:30 p.m., to address the pending "Motion for Attorney's Fees" filed by Mr. Anthony and the "Motion for Sanctions" filed by defendant Michael May.

Any court costs associated with any filings after January 2025, are, in the discretion of the Court, waived.

Enter pursuant to Rule 58, *T.R.Civ.P.*

s/ J. Eddie Lauderback  
HON. J. EDDIE LAUDERBACK  
CIRCUIT COURT JUDGE

## APPENDIX D

### IN THE SUPREME COURT OF TENNESSEE AT KNOXVILLE

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Case No.: \_\_\_\_\_

Case No.: E2024-00419-COA-R3-CV

Case No.: E2024-00419-SC-R11-CV

Washington County Circuit Court Case No. 24263

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BOBBY MacBRYAN GREEN, *Plaintiff-Appellant*

v.

MICHAEL JOHN MAY, his heirs, successors ,  
and assigns, *Defendant-Appellee*

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### APPLICATION FOR PERMISSION TO APPEAL

also serving as a

MOTION TO VACATE THE OPINION AND  
JUDGMENT RENDERED ABSENT SUBJECT  
MATTER JURISDICTION

---

s/ B. MacBryan Green

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*Plaintiff-Appellant*

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[Imprinted at filing, vertically in the right margin]

Document received by the TN Supreme Court.