

IN THE COURT OF APPEALS OF THE STATE OF OREGON

COLUMBIA COLLECTION SERVICES, INC.,
Plaintiff-Respondent,

v.

STEVEN O'NEAL WADE,
Defendant-Appellant.

Multnomah County Circuit Court No. 16CV29988

Court of Appeals No. A165416


ORDER OF DISMISSAL

Respondent moves to dismiss this appeal for lack of jurisdiction on the ground that appellant failed to serve notice of appeal on counsel for respondent within 30 days of entry of judgment as required by ORS 19.240 and 19.255. The motion is granted.

Although appellant's notice of appeal contains a Certificate of Service stating appellant mailed a copy of the notice of appeal to counsel on July 17, 2017, the certificate of service contains an incomplete address for counsel. Further, counsel states in his affidavit, and attaches evidence, that he did not receive a service copy of the notice of appeal until after expiration of the appeal period in an envelope not postmarked. Within the unpostmarked envelope was the original sealed envelope containing the service copy of notice of appeal mailed to respondent's attorney at an incomplete address bearing a handwritten notation on the envelope stating "undeliverable as addressed – no suite #."

Appellant argues that, because he timely filed notice of appeal with State Court Administrator, respondent's motion to dismiss "must be denied." Appellant is mistaken; timely service of notice of appeal on counsel for any party identified in the notice of appeal as the adverse party on appeal is as jurisdictional as timely filing of notice of appeal. ORS 129.270(2)(a) (timely service and filing of notice of appeal jurisdictional).

In light of the dismissal of this appeal, appellant's motion to consolidate this appeal with Court of Appeals No. A166307 is denied.

 01/04/2018
9:16 AM
JAMES W. NASS
APPELLATE COMMISSIONER
1/4/2018 9:16 AM

c: Steven O'Neal Wade
Timothy John Fransen
Julie A Smith

Ej

ORDER OF DISMISSAL

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

Costs: Allowed, payable by: Appellant

ORDER OF DISMISSAL

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563