

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE  
Assigned on Briefs March 2, 2023

<b>FILED</b> 03/08/2023 Clerk of the Appellate Courts
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**ABIGAIL BLEVINS v. MATTHEW GREEN**

**Appeal from the Circuit Court for Knox County  
No. 155896 Gregory S. McMillan, Judge**

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**No. E2023-00295-COA-T10B-CV**

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This is an accelerated interlocutory appeal as of right filed pursuant to Tennessee Supreme Court Rule 10B. Due to numerous deficiencies in the petition, the appeal is hereby dismissed.

**Tenn. S. Ct. R. 10B Interlocutory Appeal as of Right; Appeal Dismissed**

CARMA DENNIS MCGEE, J., delivered the opinion of the court, in which JOHN W. MCCLARTY and W. NEAL MCBRAYER, JJ., joined.

Darren V. Berg, Knoxville, Tennessee, for the appellant, Matthew Dewayne Green.

James S. Sharp, Jr., Knoxville, Tennessee, for the appellee, Abigail Blevins.

**OPINION**

**I. FACTS & PROCEDURAL HISTORY**

On February 28, 2023, Matthew Green filed in this Court a “Notice of Accelerated Appeal as of Right Pursuant to Supreme Court Rule 10(B) From the Trial Court’s Denial of Defendant’s Motion to Recuse the Tribunal.” Therein, Mr. Green states that he is appealing the trial court’s denial of his motion for recusal pursuant to Tennessee Supreme Court Rule 10B. He states that he has attached the trial court’s order denying his recusal motion, which was entered on February 6, 2023. Mr. Green also states that he has attached a copy of the “mailer envelope” showing that the order denying his recusal motion was mailed on February 7, 2023, and “[t]herefore, this notice of accelerated appeal as of right is timely filed[.]” The trial court’s order and the envelope are the only two exhibits attached to Mr. Green’s filing.

Based on our review, we have determined that neither an answer, additional briefing, nor oral argument is necessary, and we elect to act summarily on the appeal in accordance with Rule 10B, §§ 2.05 and 2.06.

## II. DISCUSSION

Because Mr. Green is pursuing accelerated interlocutory review pursuant to Rule 10B, he is subject to the Rule's specific requirements. *See Rothberg v. Fridrich & Assocs. Ins. Agency, Inc.*, No. M2022-00795-COA-T10B-CV, 2022 WL 2188998, at \*1 (Tenn. Ct. App. June 17, 2022). “Our Rule 10B jurisprudence has emphasized how it ‘is imperative that litigants file their petitions for recusal appeal in compliance with the *mandatory requirements* of Rule 10B in the first instance.’” *Id.* at \*2 (quoting *Johnston v. Johnston*, No. E2015-00213-COA-T10B-CV, 2015 WL 739606, at \*2 (Tenn. Ct. App. Feb. 20, 2015)). Rule 10B provides:

**2.02.** *To effect an accelerated interlocutory appeal as of right* from the denial of a motion for disqualification or recusal of the trial court judge, a petition for recusal appeal shall be filed in the appropriate appellate court within twenty-one days of the trial court's entry of the order. . . .

**2.03.** The petition for recusal appeal shall contain:

- (a) A statement of the issues presented for review;
- (b) A statement of the facts, setting forth the facts relevant to the issues presented for review;
- (c) An argument, setting forth the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities; and
- (d) A short conclusion, stating the precise relief sought.

*The petition shall be accompanied by a copy of the motion and all supporting documents filed in the trial court, a copy of the trial court's order or opinion ruling on the motion, and a copy of any other parts of the trial court record necessary for determination of the appeal.*

(emphasis added). “In expedited interlocutory appeals under Rule 10B, the only record the appellate court generally has is the record provided by the appellant with his or her petition.” *Rothberg*, 2022 WL 2188998, at \*2 (quoting *Smith v. Daniel*, No. M2019-02083-COA-T10B-CV, 2019 WL 6825976, at \*1 n.1 (Tenn. Ct. App. Dec. 13, 2019)). “[A]s a result of the accelerated nature of these appeals, ‘meticulous compliance’ with Rule 10B is required regarding the content of the record provided on appeal.” *Id.* (quoting *Johnston*, 2015 WL 739606, at \*2). To put it simply, “in the context of an accelerated interlocutory appeal under Rule 10B, we cannot physically see something that is not provided in connection with the initiating petition.” *Id.* The fact that filings may exist in

a trial court's record "does not enable us to review them in connection with the appeal if they are not provided to us." *Id.* at \*2 n.3. For instance, in *Rothberg*, the petitioner submitted to this Court copies of a recusal motion and other documents that were "supposedly" filed with the trial court, but they were not file-stamped copies, and he also cited to numerous other documents in the trial court record that he did not provide to this Court. *Id.* at \*1-2. Due to this deficiency, this Court dismissed the appeal. *Id.*

This Court likewise dismissed an appeal in *Judzewitsch v. Judzewitsch*, No. E2022-00475-COA-T10B-CV, 2022 WL 1279790, at \*2 (Tenn. Ct. App. Apr. 29, 2022), where the petition was even more deficient. In that case, the petition for recusal appeal was not accompanied by a copy of the recusal motion, any supporting documents filed in the trial court, or the trial court's order or opinion ruling on the recusal motion, each of which was required pursuant to Rule 10B. *Id.* We concluded that the appeal "must be summarily dismissed" due to these "numerous and substantive failures to comply" with the Rule. *Id.* at \*1. Although the petitioner was pro se, he was required to comply with the same substantive and procedural rules that represented parties were expected to observe. *Id.* at \*2. Because of the deficiencies in the petition, however, we could not even determine whether the petition for recusal appeal was timely filed within twenty-one days of the trial court's order. *Id.* Thus, the appeal was dismissed. *Id.* at \*1.

Here, Mr. Green's notice of accelerated appeal is not accompanied by any additional documents beyond the trial court's order and an envelope. We do not have a copy of the recusal motion or any other document filed in the trial court. Due to these deficiencies, this Court cannot meet our obligation to decide the appeal on an expedited basis, and we hereby dismiss the appeal. *See also Nisenbaum v. Nisenbaum*, No. M2021-01377-COA-T10B-CV, 2021 WL 5919114, at \*1 (Tenn. Ct. App. Dec. 15, 2021) ("Ms. Nisenbaum failed to comply with Rule 10B when she filed her petition for accelerated appeal without any of the required supporting documents. So we dismiss the appeal."); *Cisneros v. Miller*, No. M2016-02426-COA-T10B-CV, 2017 WL 113964, at \*2 (Tenn. Ct. App. Jan. 6, 2017) ("Because the petition for recusal appeal is not accompanied by the motion for recusal filed in the trial court, we dismiss the appeal.").

### III. CONCLUSION

For the aforementioned reasons, this appeal is hereby dismissed.<sup>1</sup> Costs of this appeal are taxed to the petitioner, Matthew Dewayne Green, for which execution may issue if necessary.

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<sup>1</sup> We do not reach the issue regarding the timeliness of Mr. Green's appeal. *See Moncier v. Wheeler*, No. E2020-00943-COA-T10B-CV, 2020 WL 4343336, at \*3 (Tenn. Ct. App. July 28, 2020) (declining to resolve an issue regarding the timeliness of the Rule 10B appeal "as other deficiencies in Mr. Wheeler's motion and petition are fatal to his claims").

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CARMA DENNIS MCGEE, JUDGE