

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

January 27, 2015

Opinion No. 15-07

Municipal-court clerk's obligation to transmit appeal bond to the circuit-court clerk

QUESTION

When an appeal from a judgment of a municipal court is taken to circuit court, is the clerk of the municipal court obligated to transmit the required appeal bond to the clerk of the circuit court along with the rest of the record?

OPINION

The municipal court clerk must transmit the appeal bond that is required under Tenn. Code Ann. 16-18-307 along with the rest of the record to the circuit-court clerk.

ANALYSIS

By its plain terms, Tenn. Code Ann. § 16-18-307 provides that a litigant who is not satisfied with a judgment of a municipal court may pursue an appeal in the circuit court and that an appeal bond in the amount of \$250 bond must be filed within ten days after the entry of the judgment.¹ Tennessee Code Annotated § 16-18-307 states:

Notwithstanding any law to the contrary, any person dissatisfied with the judgment of a municipal court, in any cases heard or determined by the court acting pursuant to § 16-18-302(a), may, within ten (10) days thereafter, Sundays exclusive, appeal to the circuit court of the county, upon giving bond in the amount of two hundred fifty dollars (\$250) for the person's appearance and the faithful prosecution of the appeal.

Tennessee Code Annotated § 16-18-307 does not specify where the bond should be filed or what is to happen with that bond after filing. But Tenn. Code Ann. § 27-5-101 to -108, which governs the procedure for appealing from general sessions court

¹ Tenn. Code Ann. § 16-18-307 is part of the Municipal Court Reform Act of 2004, under which "municipal court" includes "the city, town, mayor's, recorder's or municipal court, or other similarly functioning court, however designated for any city, town, municipality or metropolitan government . . ." *Id.* § 16-18-301(b)(2).

to circuit court, provides the necessary guidance, since “[a]ppeals from city court are governed by the same procedure applicable to appeals from general sessions court to circuit court.” *Tubwell v. City of Memphis*, 413 S.W.3d 77, 79 (Tenn. Ct. App. 2013) (citing *City of Red Boiling Springs v. Whitley*, 777 S.W.2d 706, 707 (Tenn. Ct. App. 1989)).

In construing Tenn. Code Ann. § 27-5-101 *et seq.*, the Court of Appeals has held that “[t]he required bond or pauper’s oath is to be filed in the court from which an appeal is taken to the circuit court, i.e., here, the city court.” *Tubwell*, 413 S.W.3d at 79. “Once a proper bond or pauper’s oath has been filed . . . , it is then the duty of the city court to forward the papers to the clerk of the circuit court.” *Id.* (citing Tenn. Code Ann. § 27-5-105); see *Whitley*, 777 S.W.2d at 707.

The “papers in the case” would obviously include the appeal bond. Indeed, because filing the appeal bond in the city court is a necessary precondition for the circuit court to gain jurisdiction, *Tubwell*, 413 S.W.3d at 79, 80, the circuit court would not be able to exercise its jurisdiction unless the appeal bond is transmitted. See Tenn. Code Ann. § 16-15-719 (“An appeal bond returned with other papers to the circuit court [from a general sessions court] is a conclusive presumption that an appeal was taken.”).

Based on the principles set forth in *Tubwell* and *Whitley*, when appeal is taken from a municipal-court judgment, the municipal-court clerk must transmit the bond that is required under Tenn. Code Ann. § 16-18-307 to the circuit-court clerk along with the rest of the papers in the case.

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