

# In the Indiana Supreme Court

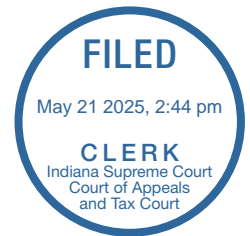
Michael Drogosz,  
Appellant,

v.

Mary Allen, et al.,  
Appellees.

Court of Appeals Case No.  
24A-MI-2280

Trial Court Case No.  
75C01-2307-MI-000029



## Published Order

This matter comes before the Court on a petition to transfer jurisdiction under Indiana Appellate Rule 57. The trial court issued an order dismissing Appellant’s complaint on July 29, 2024, making any Notice of Appeal due by August 28. After receiving a Notice of Appeal postmarked September 16, the Court of Appeals dismissed the appeal with prejudice on September 26. Appellant seeks transfer, arguing that he timely mailed a Notice of Appeal on August 20.

Under Appellate Rule 9(A)(5), the right to appeal “shall be forfeited” unless the Notice of Appeal is timely filed. And in *Dowell v. State*, this Court adopted the “prison mailbox rule,” which finds that a document is timely filed if the prisoner can provide “reasonable, legitimate, and verifiable documentation supporting a claim that a document was timely submitted to prison officials for mailing.” 922 N.E.2d 605, 607 (Ind. 2010). The Appendix includes several documents supporting Appellant’s claim that he submitted his Notice of Appeal to prison officials for mailing on or around August 20: (1) an entry from his personal planner, dated August 20, with the Notice of Appeal listed in the “out” column; (2) a copy of his Notice of Appeal with an August 19 certificate of service; and (3) a Notice of Remittance from the Indiana State Prison listing Appellant’s Notice of Appeal, among other documents, with a “mailed from” stamp of August 21.

The Court has reviewed the petition to transfer and accompanying materials. Being duly advised, the Court votes to GRANT transfer, VACATE the September 26, 2024 order dismissing this appeal, and REMAND the case to the Court of Appeals for a briefing schedule. This Court expresses no opinion on the merits.

Done at Indianapolis, Indiana, on 5/21/2025.

Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.