

FIRST DIVISION
September 28, 2026

No. 1-25-2374

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CITY OF CALUMET CITY, an Illinois Municipal Corporation,	)	
	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	23M6000502
	)	
KENNETH W. MANNS, JR. and RONALD WRIGHT,	)	Honorable
	)	Carrie E. Hamilton,
Defendants.	)	Judge Presiding
	)	
(Ronald Wright, Defendant-Appellant.)	)	

PRESIDING JUSTICE ELLIS delivered the judgment of the court.
Justice Fitzgerald Smith and Howse concurred in the judgment.

ORDER

¶ 1 *Held:* Vacated and remanded. Court erred in not considering post-judgment motion to vacate for lack of jurisdiction.

¶ 2 After a bench trial, the court entered a \$50,000 judgment against defendant Ronald Wright. The next day, Wright filed both a motion to vacate the judgment and a notice of appeal of that judgment. The circuit court, believing it lacked jurisdiction over the post-judgment motion, struck the motion without reaching its merits.

¶ 3 That was error. The circuit court had jurisdiction to consider that post-judgment motion.

While we understand trial courts' caution when notices of appeal are filed, and we appreciate the

somewhat confusing record the trial court here faced, it remains that the post-judgment motion was timely filed and properly before the court when the court struck it for lack of jurisdiction. It was, in fact, the *notice of appeal* that was untimely—premature—under the supreme court rules.

¶ 4 Because the court did not exercise its discretion in ruling on the motion to vacate, believing it had none, we vacate the trial court’s judgment denying the motion to vacate and remand so the court can properly consider that post-judgment motion in its discretion.

¶ 5 BACKGROUND

¶ 6 This case began when Calumet City filed a condemnation suit against the owner (Kenneth Manns, Jr.) and suspected occupant (Wright) of 463 Oglesby Avenue in Calumet City, which we will call the “Property.” Wright claimed he and Manns entered into a “verbal contract” for Wright to “manage and maintain [the Property] on a month-to-month basis as needed, and make modifications for a period of two years.” Given this alleged work, Wright claimed a \$58,460 mechanic’s lien on the Property.

¶ 7 Eventually, Manns settled with the City by agreeing to surrender his rights to the Property. The City then turned its attention to warding off Wright’s claims against the Property and asserting a few of its own. Among them: the City claimed that Wright had been living at the Property, without paying rent, for eight years.

¶ 8 On October 15, 2025, the court held a bench trial. Notably, “Mr. Wright was not present for the bench trial, nor did he present any evidence during Defendant’s case in chief to contradict any of the evidence submitted or testimony adduced during the Plaintiff’s case in chief.” Wright was, however, represented by counsel, who appeared for trial.

¶ 9 The court found that Wright had been living at the Property without paying rent or having a rental agreement. It further found no merit to Wright’s mechanic’s lien or his claim that he had

an agreement to be the property manager and perform work on the Property. The court concluded that “Wright’s conduct was intentional and predicated upon false representations.”

¶ 10 The court awarded the City \$5,000 for slander of title and \$48,000 in back rent. The court reduced the judgment to \$50,000 to respect “the jurisdictional limits of the court.”

¶ 11 The next day, October 16, 2025, Wright filed two motions. First, he filed a motion to vacate the judgment, claiming his failure to appear was due to illness, he had tried to notify his attorney that day, and he should be given a new trial. Second, he filed a notice of appeal. (Though it ultimately makes no difference, Wright technically filed his motion to vacate 14 minutes before his notice of appeal.)

¶ 12 Due to an administrative error, the notice of appeal was docketed in the circuit court but never transmitted to this court. On October 21, Wright filed an amended notice of appeal. That notice never made it to this court, either.

¶ 13 That same day, October 21, the circuit court *sua sponte* struck Wright’s motion to vacate because it “no longer has jurisdiction,” given Wright’s notice of appeal.

¶ 14 On November 18, Wright filed a third notice of appeal of the October 15 judgment. This time, this notice of appeal was transmitted to this court and docketed as the present appeal.

¶ 15 ANALYSIS

¶ 16 As the court based its striking of the motion to vacate on lack of jurisdiction, we start by discussing the interplay here between appellate and circuit court jurisdiction.

¶ 17 Generally, a party must appeal a final judgment within 30 days of that judgment or, if a timely motion directed against that judgment is filed, within 30 days of the denial of that post-judgment motion. *Royal Oaks Condominium Association, Inc. v. Stevenson*, 2025 IL App (1st)

242317, ¶ 16. A post-judgment motion is “timely” if filed within 30 days of the judgment it attacks. *Id.*; 735 ILCS 5/2-1203(a) (West 2024); see *Sears v. Sears*, 85 Ill. 2d 253, 259 (1981).

¶ 18 There is no question here, obviously, that Wright’s post-judgment motion, filed one day after the court’s final judgment, was timely.

¶ 19 That makes all the difference here because, under Illinois Supreme Court Rule 303(a)(2) (eff. July 1, 2017), if a timely post-judgment motion is filed, “a notice of appeal filed before the entry of the order disposing of the last pending postjudgment motion *** *becomes effective when the order disposing of said motion or claim is entered.*” (Emphasis added). In other words, when, as here, a timely post-judgment motion is filed, a notice of appeal filed before the circuit court disposes of that post-judgment motion is considered premature—not “effective” until the circuit court disposes of that post-judgment motion. *Id.*

¶ 20 All of which is to say that the circuit court retains jurisdiction to consider a timely filed post-judgment motion, notwithstanding the filing of a notice of appeal before or after the post-judgment motion is filed. As our supreme court explained:

“[T]he circuit court does not completely lose jurisdiction upon the filing of a notice of appeal. It is beyond dispute that the circuit court has jurisdiction to act on a timely post-judgment motion. [Citation.] This is true even if that motion is filed after a notice of appeal, because the filing of the post-judgment motion renders the prior notice of appeal of no effect.” *John G. Phillips & Associates v. Brown*, 197 Ill. 2d 337, 343 (2001).

¶ 21 The committee comments, citing *John G. Phillips*, explain that the purpose of this rule is to “protect[] the rights of an appellant who has filed a ‘premature’ notice of appeal by making the notice of appeal effective when the order denying a postjudgment motion or resolving a still-pending separate claim is entered.” Committee Comments, Ill. S. Ct. R. 303 (Mar. 16, 2007).

¶ 22 Here, then, when Wright somewhat confusingly filed both a post-judgment motion to vacate and a notice of appeal, the circuit court retained jurisdiction to consider that post-judgment motion, and the notice of appeal remained premature until the circuit court disposed of that post-judgment motion. Though Wright filed the post-judgment motion first, the order of the filings would not have mattered. As long as a post-judgment motion was timely filed, as here, the circuit court had jurisdiction to dispose of it.

¶ 23 To provide otherwise would invite chaos and gamesmanship. Imagine, for example, if both a plaintiff and defendant had issues with the court's final judgment. One side immediately files a notice of appeal, while the other party later, but timely, files a post-judgment motion directed against the judgment. The filing of the notice of appeal would eliminate the circuit court's jurisdiction and deprive the other party of its right to a timely post-judgment motion. We would be incentivizing a race to the courthouse and depriving the circuit court of the chance to cure any errors before an appeal.

¶ 24 Or imagine multiple defendants, where Defendant A immediately appeals an adverse judgment, while Defendant B files a timely motion directed against that same judgment. Would we allow the parties, on their own, to split jurisdiction that way? True, the court could *choose* to let one party run off to the appellate court on its own by providing Rule 304(a) findings, but that is far different than leaving adverse parties, always seeking advantage, in control of jurisdiction.

¶ 25 We realize that here, the filing of both a post-judgment motion and a notice of appeal was not gamesmanship. It was the result of a *pro se* litigant unfamiliar with the niceties of jurisdictional rules. But the rule applies across the board all the same.

¶ 26 The motion to vacate argued that Wright should be granted a new trial because he had a meritorious reason for missing the trial (a viral illness) that he tried unsuccessfully to

communicate to the court, and the result was unfair because the court never heard his side of the story before judgment. A ruling on the merits would have called for the exercise of the court's discretion. See *Zahdan v. Frontline Business Enterprise Inc.*, 2024 IL App (1st) 221351, ¶ 45 (post-judgment motion "based on new matters, whether additional facts or new legal theories," invokes court's discretion).

¶ 27 When a court is required to exercise discretion but fails to do so, however understandable the reason, that failure itself is typically an abuse of discretion. *Seymour v. Collins*, 2015 IL 118432, ¶ 50; *Owens v. Berkshire Nursing & Rehab Center, LLC*, 2026 IL App (1st), ¶ 28 (circuit court failed to exercise discretion on motion to amend post-judgment motion, believing it lacked jurisdiction). So our only remaining question is whether we take up the merits of the post-judgment motion ourselves or remand to the circuit court.

¶ 28 If the error alleged in Wright's motion could be chalked up as harmless error at best, we might be inclined to rule on the merits ourselves for the sake of judicial economy. See, e.g., *People v. Bernard*, 2021 IL App (2d) 181055, ¶ 25 ("not every error is of such magnitude that relief is warranted."). But Wright's argument is not frivolous. Whether it ultimately carries the day should be left to the circuit court, which is far more familiar with this case and has autonomy over its docket. See *Owens*, 2026 IL App (1st), ¶¶ 29-30 (remanding to circuit court to decide whether defendant should be permitted to amend post-judgment motion).

¶ 29 So we vacate the court's judgment striking the post-judgment motion to vacate and remand for the circuit court to consider that motion on the merits.

¶ 30 There is one more jurisdictional issue, this time of the appellate variety. While Wright argues in his appellate brief that his motion to vacate should have been granted, he did not list the order striking his motion to vacate in his notice of appeal. He listed the underlying judgment

(from October 15) but not the order striking the motion to vacate (from October 21). The City argues that we thus lack jurisdiction to consider the denial of the motion to vacate.

¶ 31 That is incorrect. We have long made clear that, as long as the notice of appeal lists either the final judgment or the order disposing of the post-judgment motion, our jurisdiction is proper. See *People v. Isaacson*, 409 Ill. App. 3d 1079, 1081-82 (2011); *Mandel v. Rosc-El, Inc.*, 2021 IL App (1st) 192560-U, ¶ 17 (“ ‘It is unimportant whether the notice of appeal cites to the order disposing of the post-trial motion or the order entering the judgment. For jurisdictional purposes, reference to either order will do.’ ”) (quoting *Netto v. Goldenberg*, 266 Ill. App. 3d 174, 178 (1994), *overruled on other grounds by Holton v. Memorial Hospital*, 176 Ill. 2d 95 (1997)). Our appellate jurisdiction is proper.

¶ 32 The judgment of the circuit court is vacated. The cause is remanded for the circuit court’s consideration of Wright’s post-judgment motion to vacate.

¶ 33 Vacated and remanded.