



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

January 7, 2014

To:

Hon. Steven P. Anderson
Circuit Court Judge
311 Miner Avenue East
Ladysmith, WI 54848

Karen Nord
Clerk of Circuit Court
Washburn County Courthouse
P.O. Box 339
Shell Lake, WI 54871

Michelle K. Schindler
Dykema Gossett, PLLC
10 S. Wacker Dr., Ste. 2300
Chicago, IL 60606

Eva Marie Harvey
P.O. Box 572
Spooner, WI 54801

Zimmery O. Harvey
524 Christian Hollow Rd.
Smethport, PA 16749

State of Wisconsin Bureau of Child Support
114 East State Capitol
Madison, WI 53703

You are hereby notified that the Court has entered the following opinion and order:

2012AP2354

GMAC Mortgage, LLC v. Eva Marie Harvey (L.C. # 2011CV171)

Before Hoover, P.J., Mangerson and Stark, JJ.

Eva Marie Harvey, pro se, appeals an order confirming the sheriff's sale of foreclosed property. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. We summarily affirm the order. *See* WIS. STAT. RULE 809.21.¹

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

In September 2004, Eva and her then-husband, Zimmery Harvey, signed a note in the principal amount of \$55,900, and as security, granted the original lender a mortgage against a home located in Spooner. The mortgage and note were later assigned to GMAC Mortgage, LLC. When the Harveys defaulted on the loan, GMAC filed a foreclosure action. A foreclosure judgment was ultimately entered on February 1, 2012. GMAC purchased the property at a sheriff's sale on August 29, 2012, and the court orally confirmed the sale at an October 15, 2012 hearing. On October 22, 2012, Harvey filed a notice of appeal that indicated she was "appealing the foreclosure confirmation of sale." A written order confirming the sheriff's sale was then entered on October 23, 2012.

GMAC argues we lack jurisdiction to review the order confirming the sheriff's sale because the notice of appeal was filed before the circuit court's written order was entered. GMAC is mistaken. WISCONSIN STAT. § 808.04(8) provides: "If the record discloses that the judgment or order appealed from was entered after the notice of appeal or intent to appeal was filed, the notice shall be treated as filed after that entry and on the day of the entry."

Although we have jurisdiction to review the order confirming the sheriff's sale, Harvey's brief fails to raise any arguments specific to that order. Rather, she raises issues relevant to the foreclosure judgment.² Harvey, however, did not timely file a notice of appeal from the foreclosure judgment, thus depriving this court of jurisdiction to review it.

² Harvey raises undeveloped arguments regarding title to the property and her mail going "missing." She also claims there was no mortgage to foreclose.

Foreclosure actions, unlike most other actions, often result in two separate and final appealable orders: a judgment of foreclosure and a subsequent order of confirmation of sale. *See Shuput v. Lauer*, 109 Wis. 2d 164, 172, 325 N.W.2d 321 (1982); *see also Anchor Sav. & Loan Ass'n v. Coyle*, 148 Wis. 2d 94, 101, 435 N.W.2d 727 (1989). Unless a valid notice of entry of judgment is given, a notice of appeal must be filed within ninety days of entry of a final judgment or order. WIS. STAT. § 808.04(1). The court of appeals has no jurisdiction over an appeal that is not timely taken. WIS. STAT. RULE 809.10(1)(e); *see also LaCrosse Trust Co. v. Bluske*, 99 Wis. 2d 427, 299 N.W.2d 302 (Ct. App. 1980). Because we have no jurisdiction to review any issues that challenge the foreclosure judgment, and Harvey raises no claims specific to the order that is actually on appeal, we summarily affirm the order confirming the sheriff's sale.

Upon the foregoing,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals