

COURT OF APPEALS OF VIRGINIA

Record No. 0859-25-2

COLLEGE PHARMACY INC., d/b/a
COLLEGE PHARMACY

v.

ARNE W. OWENS, DIRECTOR OF THE
VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS, ET AL.

Present: Judges Callins, Duffan and Senior Judge Clements

Argued via videoconference

Opinion Issued August 18, 2026

FROM THE CIRCUIT COURT OF HENRICO COUNTY

Randall G. Johnson, Jr., Judge

Henry I. Willett, III (Belinda D. Jones; Elizabeth S. Olcott; Christian & Barton, LLP, on briefs), for appellant.

James E. Rutkowski, Senior Assistant Attorney General (Jason S. Miyares,¹ Attorney General, on brief), for appellees.

PUBLISHED OPINION BY JUDGE JEAN HARRISON CLEMENTS

College Pharmacy, Inc., d/b/a College Pharmacy (College Pharmacy), noted an appeal to the Circuit Court of the City of Richmond after the Virginia Department of Health Professions (the Department) entered an order suspending its Virginia registration. College Pharmacy later filed a petition for appeal in the Circuit Court of Henrico County (circuit court). The Department filed a plea in bar and motion to dismiss, arguing that College Pharmacy had not filed the petition for appeal in the circuit court named in the notice of appeal, as required by Rule 2A:4(a).

¹ Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

The circuit court dismissed College Pharmacy’s petition for appeal on the ground that it lacked jurisdiction.

Although College Pharmacy filed its petition for appeal in the wrong circuit court under Rule 2A:4(a), its petition and notice of appeal were timely, and its notice of appeal properly identified the case appealed. Under those circumstances, the circuit court had jurisdiction. Still, compliance with Rule 2A:4(a) is mandatory, and a failure to comply with the rule “renders an appeal subject to dismissal.” *Mayo v. Dep’t of Com.*, 4 Va. App. 520, 522 (1987) (citing *Whitlow v. Grubb*, 198 Va. 274, 276 (1956)). Accordingly, because College Pharmacy named one circuit court in its notice of appeal but filed its petition in another, it did not comply with Rule 2A:4(a), and we affirm the circuit court’s judgment dismissing the appeal.

BACKGROUND

College Pharmacy is a Colorado corporation authorized to transact business in Virginia. It is regulated by the Department’s Board of Pharmacy. In 2010, the California Board of Pharmacy (the California Board) issued College Pharmacy a nonresident sterile compound permit and a nonresident pharmacy permit. In 2023, College Pharmacy surrendered its California nonresident sterile compound permit as part of a stipulated settlement and disciplinary order. The California Board also revoked College Pharmacy’s nonresident pharmacy permit but stayed the revocation and placed College Pharmacy on five years’ probation with conditions. When the Department learned of the California proceeding, it suspended College Pharmacy’s Virginia registration under Code § 54.1-2409.²

² “Upon receipt of documentation . . . that a person . . . registered by a board within the [the Department] has . . . had his license, certificate, or registration to practice the same profession or occupation revoked or suspended” in another jurisdiction “for reasons other than nonrenewal[,] . . . the Director [of the Department] shall immediately suspend, without a hearing, the license, certificate, or registration of any person so disciplined.” Code § 54.1-2409.

College Pharmacy timely noted an appeal under Code § 2.2-4026(A) and Rule 2A:2 to the Circuit Court of the City of Richmond. But it subsequently filed a petition for appeal in the Circuit Court of Henrico County. The Department filed a plea in bar and motion to dismiss, arguing that College Pharmacy’s failure to file the petition for appeal in the Richmond City Circuit Court—the court named in the notice of appeal—was a defect depriving the circuit court of jurisdiction under Rule 2A:4(a).

After a hearing, the circuit court issued an opinion letter holding that “all the requirements” contained in Rule 2A:4(a) are “jurisdictional.” So despite College Pharmacy’s timely filed petition for appeal, College Pharmacy had not satisfied all of Rule 2A:4(a)’s requirements because of its failure to file the petition in the circuit court named in its notice of appeal. Thus, the circuit court concluded that it lacked jurisdiction. The court found that the issue arose because College Pharmacy made an “error of reference,” or a “typographical error,” in its notice of appeal by naming the Circuit Court of the City of Richmond, even though it had “always sought the jurisdiction of” Henrico. Even so, the court ruled that the error remained uncorrected, resulted in an improperly filed petition for appeal, and deprived the court of jurisdiction.³ Accordingly, it dismissed College Pharmacy’s appeal. College Pharmacy timely appealed to this Court.

On appeal, College Pharmacy asserts that the petition for appeal was timely and free from errors, so it complied with Rule 2A:4(a), and the circuit court erred by dismissing the appeal for lack of jurisdiction. Although the notice of appeal mistakenly identified the court to which the appeal would be taken, College Pharmacy continues, that defect is not jurisdictional under Rule 2A:2 because the notice of appeal was timely and fulfilled its purpose of notifying the Department

³ At the hearing, the circuit court noted that there had been “no correction” of the notice of appeal and wondered how the case could proceed with that “latent” error in violation of the rules. College Pharmacy responded merely that the circuit court had jurisdiction regardless of whether the notice of appeal was amended because it was timely and provided the requisite notice. The error remained uncorrected at the time of the court’s ruling.

that the litigation had not ended. College Pharmacy claims that under our decisions in *Chabolla v. Virginia Department of Social Services*, 55 Va. App. 531 (2010), and *Mayo*, the timeliness of the petition is the controlling factor. Although College Pharmacy is correct that the circuit court had jurisdiction, its failure to comply with Rule 2A:4(a) still justified dismissing the appeal.⁴

ANALYSIS

“A lower court’s interpretation of the Rules of . . . Court, like its interpretation of a statute, presents a question of law that we review de novo.” *Wolfe v. Shulan Jiang*, 83 Va. App. 107, 112 (2025) (quoting *Graham v. Cmty. Mgmt. Corp.*, 294 Va. 222, 226 (2017)); accord *Shannon v. Commonwealth*, 289 Va. 203, 204 n.* (2015) (holding that whether a lower court “has misapplied the Rules of Court necessarily presents a question of law”).

“Any party appealing from a . . . case decision must file with the agency secretary, within 30 days . . . after service of the final order in the case decision, a notice of appeal signed by the appealing party or that party’s counsel.” Rule 2A:2(a). The notice of appeal must “identify the . . . case decision appealed from,” “state the names and addresses of the appellant and of all other parties and their counsel, if any,” “specify the circuit court to which the appeal is taken,” and certify “that a copy of the notice of appeal has been mailed to each of the parties.” Rule 2A:2(b) (emphasis added). Then, “[w]ithin 30 days after the filing of the notice of appeal, the appellant must file a petition for appeal with the clerk of the circuit court named in the first notice of appeal to be filed.” Rule 2A:4(a) (emphasis added). The petition must, among other things, include assignments of error and state the relief requested. Rule 2A:4(b).

⁴ We “do ‘not review lower courts’ opinions, but their judgments.” *Evans v. Commonwealth*, 290 Va. 277, 288 n.12 (2015) (quoting *Jennings v. Stephens*, 574 U.S. 271, 277 (2015)). Thus, when a court’s “decision is correct, but its reasoning is incorrect, and the record supports the correct reason,” we will “uphold the judgment pursuant to the right result for the wrong reason doctrine.” *Haynes v. Haggerty*, 291 Va. 301, 305 (2016) (citing *Perry v. Commonwealth*, 280 Va. 572, 580 (2010)).

Rule 2A:2’s notice of appeal requirements broadly track those for notices of appeal to this Court in Rule 5A:6. *Mayo*, 4 Va. App. at 522-23 (finding that the purpose of the notice of appeal time requirements is “equally applicable” in both circumstances). Both rules specify where and when the appellant must file the notice of appeal, require the appellant to identify all the parties, and certify that those parties have been sent a copy. *Compare* Rule 2A:2, with Rule 5A:6(a), and Rule 5A:6(d)(2). Further, although not expressly stated in Rule 5A:6, as it is in Rule 2A:2(b), a notice of appeal to this Court must also “adequately identif[y]” the proceeding from which the appeal is taken. *Nicholson v. Commonwealth*, 300 Va. 17, 22 (2021) (alteration in original) (quoting *Roberson v. Commonwealth*, 279 Va. 396, 407 (2010)); *accord Ghameshlouy v. Commonwealth*, 279 Va. 379, 394 (2010).

Rule 2A:2(b) also requires the appellant to “specify the circuit court *to which* the appeal is taken.” (Emphasis added). This additional requirement is critical in administrative appeal cases because an appeal from an administrative agency’s case decision may be heard by *any* circuit court where venue is proper “as provided in § 2.2-4003,” the Commonwealth’s venue statute. Code § 2.2-4026. And venue may be proper in more than one court at a time. *See id.* (incorporating Code § 2.2-4003); Code § 2.2-4003 (incorporating Code § 8.01-261(1)).⁵ Further, Rule 2A:2(b)’s

⁵ Moreover, if more than one party is aggrieved by an agency case decision, venue may be different for each appellant, as both Rule 2A:3(b) and Rule 2A:4(a) expressly anticipate the possibility of different notices of appeal from multiple appellants identifying different courts. Each rule provides that in such cases, the court in the first-filed notice of appeal prevails. Rule 2A:3(b); Rule 2A:4(a).

By contrast, there is generally only one court an appellant can seek relief from when appealing from a circuit court judgment—this Court. *See* Code §§ 17.1-405, 17.1-406, 17.1-407. Even where an appeal may lie directly to the Supreme Court instead of this Court, *see, e.g.*, Code § 17.1-406(B), the subject-matter jurisdictions of the two Courts are defined by statute; generally only one of them has such jurisdiction at a time, and if an appeal is filed in the wrong one, the appeal is not dismissed but transferred to the right one. Code § 8.01-677.1; *see also XL Specialty Ins. Co. v. Va. Dep’t of Transp.*, 269 Va. 362, 372-73 (2005) (holding a new notice of appeal is not required for appeals transferred between Courts under Code § 8.01-677.1).

requirement that an appellant specify the appealed to circuit court informs the agency secretary where to send the record after it is prepared, as Rule 2A:3(b) requires.

Still, the function of a notice of appeal under either Rule 5A:6 or 2A:2 is the same—to provide notice to appellee that litigation is continuing and direct the circuit court clerk or agency secretary to prepare the record for the appellate court. *Nicholson*, 300 Va. at 22; *Mayo*, 4 Va. App. at 523 (citing *Avery v. Cnty. Sch. Bd.*, 192 Va. 329, 331 (1951)); Rule 2A:3. Given that “simple” function, a notice of appeal is not “required” to “be precise, accurate, and correct in every detail before [an] appellate court can acquire jurisdiction over the case in which the notice is filed.” *Nicholson*, 300 Va. at 22 (alteration in original) (quoting *Ghameshlouy*, 279 Va. at 391). Rather, to “confer active jurisdiction,” the “notice of appeal must be timely, and it must ‘adequately identif[y] the case to be appealed.’” *Id.* (alteration in original) (quoting *Roberson*, 279 Va. at 407). “Any defect in the notice of appeal that does not touch on its timeliness or the identity of the case to be appealed is procedural only.” *Id.*

Indeed, caselaw demonstrates that timeliness and properly identifying the appealed case are the touchstones for determining whether a notice of appeal confers jurisdiction on an appellate court. *Id.*; *Ghameshlouy*, 279 Va. at 390-91; *Roberson*, 279 Va. at 407; *State Water Control Bd. v. Crutchfield*, 265 Va. 416, 423-24 (2003). Accordingly, just as an untimely notice of appeal under Rule 5A:6 deprives this Court of jurisdiction, *Ghameshlouy*, 279 Va. at 390-91, so too an untimely notice of appeal under Rule 2A:2 deprives a circuit court of jurisdiction over an appeal from an agency decision, *Crutchfield*, 265 Va. at 423-24 (citing *Va. Ret. Sys. v. Avery*, 262 Va. 538, 542 (2001)). By contrast, a timely notice of appeal that correctly identifies the case appealed but contains an “error of reference” regarding the order being appealed, *Carlton v. Paxton*, 14 Va. App. 105, 109-10 (1992), or fails to identify a party as an appellee, *Ghameshlouy*, 279 Va. at 393-94, does not deprive the appellate court of active jurisdiction. *See also Chabolla*, 55 Va. App. at 539-40

(holding that a petition for appeal’s failure to specify assigned errors to an agency decision as required by Rule 2A:4(b) was not jurisdictional, and the petition could be amended under Rule 1:8, when the petition was otherwise timely).

Here, the circuit court found that there was “no dispute” that College Pharmacy’s timely notice of appeal contained an “error of reference,” or a “typographical error,” because it improperly identified the Circuit Court of the City of Richmond instead of the Circuit Court of Henrico County, even though College Pharmacy had “always sought” to appeal to Henrico, not Richmond. That error concerned merely a question of venue, which is not jurisdictional. *Porter v. Commonwealth*, 276 Va. 203, 229 (2008). Thus, a defect in identifying the court “to which the appeal is taken” under Rule 2A:2(b) is procedural only and may be cured by amendment. *See Brandon v. Coffey*, 77 Va. App. 628, 632 n.1 (2023); *see also Wellmore Coal Corp. v. Harman Mining Corp.*, 264 Va. 279, 281-83 (2002).⁶

But merely because the error was procedural does not mean that it was insignificant or that the court should have denied the Department’s motion to dismiss. “A litigant must follow a number of formal requirements when appealing from one adjudicative body to another,” and those “requirements vary based on the type of proceeding.” *Boasso Am. Corp. v. Zoning Adm’r of Chesapeake*, 293 Va. 203, 207 (2017). Relevant here, appeals to a circuit court under the Administrative Process Act “must be brought ‘in the manner provided by the rules of the Supreme Court of Virginia.’” *Crutchfield*, 265 Va. at 423 (quoting Code § 2.2-4026). The “rules governing

⁶ The Department argues that Rule 2A:4(a)’s requirement that the petition for appeal be filed in the circuit court named in the notice of appeal is jurisdictional because in *Chabolla* we stated that “Rule 2A:4(a) is jurisdictional,” and “Rule 2A:4(b) is not.” 55 Va. App. at 540. But in *Crutchfield*, the Supreme Court held that Rule 2A:4(a)’s requirement that a petition for appeal be served on all parties was not jurisdictional. 265 Va. at 423-24. Thus, *Chabolla* cannot be read to mean that *every* requirement in Rule 2A:4(a) is jurisdictional, as the circuit court found. Further, to the extent *Chabolla* could be interpreted so expansively, its holding would be dicta, as it was undisputed that the petition for review in that case was timely, and there was no suggestion that any other provision of Rule 2A:4(a) had been violated.

appeal procedures are mandatory and ‘compliance with them is necessary for the orderly, fair and expeditious administration of justice,’” however “‘technical [the rules] may seem to be.’” *Mayo*, 4 Va. App. at 522-23 (first quoting *Condrey v. Childress*, 203 Va. 755, 757 (1962); and then quoting *Avery*, 192 Va. at 331). Consequently, a “[f]ailure to comply with the rules renders an appeal subject to dismissal.” *Id.*

For example, in *Boasso*, the appellant’s petition for review of a board of zoning appeals decision did not name a necessary party, so the circuit court dismissed it. 293 Va. at 205-06. Affirming, the Supreme Court held that even though the defect did not deprive the circuit court of jurisdiction and was waivable, the appellant did not properly institute the appeal, so the circuit court did not err by dismissing it. *Id.* at 210. So too here. College Pharmacy did not properly institute this appeal as mandated by Rules 2A:2 and 2A:4. Faced with College Pharmacy’s plain failure to follow the mandatory procedural rules for instituting the appeal, and the uncorrected error in the notice of appeal, the circuit court did not err by dismissing the appeal.

CONCLUSION

For the foregoing reasons, the circuit court’s judgment is affirmed.

Affirmed.