

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

In the Matter of:	:	
M.V.V.,	:	No. 11AP-229
(K.H.,	:	(C.P.C. No. 07JU09-13863)
Appellant).	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on September 6, 2011

Robert J. McClaren, for Franklin County Children Services.

Joel Mazel, Guardian ad Litem.

Teresa Villarreal, for appellant K.H.

APPEAL from the Franklin County Court of Common Pleas,
Division of Domestic Relations, Juvenile Branch.

KLATT, J.

{¶1} Appellant, K.H., the biological mother of M.V.V., appeals from a judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch, denying her motion for relief from judgment filed pursuant to Civ.R. 60(B). Because the trial court lacked jurisdiction to consider appellant's motion, we affirm that judgment.

Factual and Procedural Background

{¶2} In September 2007, Franklin County Children Services ("FCCS") filed a complaint in the trial court in which it alleged that M.V.V. was a neglected and dependent

child. The allegation arose after appellant was arrested after a traffic stop during which police found her with drug paraphernalia. Subsequently, the trial court awarded FCCS temporary custody of the child. In July 2008, FCCS filed a motion for an award of permanent custody of M.V.V. In November 2008, after an uncontested hearing, the trial court granted FCCS permanent custody of the child and terminated appellant's parental rights. On July 17, 2009, the child was adopted. The trial court terminated FCCS' custody of the child on August 21, 2009.

{¶3} Almost one year later, on May 12, 2010, appellant filed a motion for relief from judgment, pursuant to Civ.R. 60(B), seeking to vacate the July 17, 2009 final order of adoption, although appellant later sought to vacate only the trial court's November 2008 judgment granting permanent custody of her child to FCCS. After a hearing, the trial court denied appellant's motion.

{¶4} Appellant appeals and assigns the following errors:

I. THE FRANKLIN COUNTY JUVENILE COURT ERRED IN DENYING APPELLANT'S MOTION FOR RELIEF PURSUANT TO OHIO CIV. PROC. R. 60(B).

II. THE FRANKLIN COUNTY JUVENILE COURT LACKED JURISDICTION FOR ITS AWARD OF PERMANENT CUSTODY TO APPELLEE FRANKLIN COUNTY CHILDREN SERVICES.

Juvenile Court Jurisdiction and R.C. 2151.353(E)(1)

{¶5} We need not address appellant's assignments of error, which concern the merits of her Civ.R. 60(B) motion, because the trial court lacked jurisdiction to consider the merits of that motion.

{¶6} R.C. 2151.353(E)(1) provides that a juvenile court:

* * * shall retain jurisdiction over any child for whom the court issues an order of disposition pursuant to division (A) of this section or pursuant to section 2151.414 or 2151.415 of the Revised Code until the child attains the age of eighteen years if the child is not mentally retarded, developmentally disabled, or physically impaired, the child attains the age of twenty-one years if the child is mentally retarded, developmentally disabled, or physically impaired, or the child is adopted and a final decree of adoption is issued, except that the court may retain jurisdiction over the child and continue any order of disposition under division (A) of this section or under section 2151.414 or 2151.415 of the Revised Code for a specified period of time to enable the child to graduate from high school or vocational school. The court shall make an entry continuing its jurisdiction under this division in the journal.

{¶7} Here, the trial court issued an order of disposition pursuant to R.C. 2151.414 when it awarded FCCS permanent custody of M.V.V. A final decree of adoption for M.V.V. was filed on July 17, 2009, and the trial court did not file an entry otherwise continuing its jurisdiction. Thus, pursuant to R.C. 2151.353(E)(1), the trial court's jurisdiction over M.V.V. terminated on July 17, 2009. Appellant filed her motion for relief from judgment on May 12, 2010, long after the trial court's jurisdiction had ended. Therefore, the trial court did not have jurisdiction to consider appellant's motion and, accordingly, properly denied it.¹ *In re Phillips*, 12th Dist. No. CA2003-03-062, 2003-Ohio-5107, ¶9-12 (concluding that juvenile court lacked jurisdiction to consider Civ.R. 60(B) motion to vacate award of permanent custody filed after adoption of child).

{¶8} The trial court lacked jurisdiction to consider appellant's Civ.R. 60(B) motion. This conclusion renders her assignments of error, which address the merits of

¹ We note, however, that technically the trial court should have dismissed the motion for lack of jurisdiction. See *State v. Hollingsworth*, 10th Dist. No. 08AP-785, 2009-Ohio-1753, ¶10 (affirming denial of petition for postconviction relief based on lack of jurisdiction, but noting that proper course of action would have been to dismiss petition).

her motion, moot. Accordingly, we affirm the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch.

Judgment affirmed.

CONNOR and DORRIAN, JJ., concur.
