

**IN THE COURT OF APPEALS  
ELEVENTH APPELLATE DISTRICT  
LAKE COUNTY, OHIO**

STATE OF OHIO,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
-vs-	:	<b>CASE NO. 2005-L-037</b>
KENNETH TOMBLIN,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Juvenile Division, Case No. 2004 SE 1311.

Judgment: Appeal Dismissed.

*Charles E. Coulson*, Lake County Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

*Judson J. Hawkins*, Center Plaza South, 35350 Curtis Boulevard, #350, Eastlake, OH 44095 (For Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.,

{¶1} On March 1, 2005, appellant, Kenneth Tomblin, filed a notice of appeal from a January 28, 2005 judgment of the Lake County Court of Common Pleas, Juvenile Division. In that judgment, the trial court denied appellant's motion to dismiss three counts against him of failure to pay adequate child support. The court concluded that the matter would proceed to trial as scheduled.

{¶2} It is well established that the denial of a motion to dismiss is not a final appealable order as it neither determines the action nor prevents a final judgment. R.C.

2505.02(B); *Polikoff v. Adam* (1993), 67 Ohio St.3d 100. Appellant can always appeal after a final decision has been made in this case.

{¶3} Based upon the foregoing analysis, this appeal is hereby sua sponte dismissed for lack of a final appealable order.

{¶4} Appeal dismissed.

WILIAM M. O'NEILL, J.,

DIANE V. GRENDALL.,

concur.