

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

ANNE W. KIMANI,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2009-L-060
JULIUS K. NGANGA,	:	
Defendant-Appellant,	:	
(LAKE COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES, CHILD SUPPORT ENFORCEMENT DIVISION, Appellee).	:	

Civil Appeal from the Court of Common Pleas, Domestic Relations Division, Case No. 05 DR 000219.

Judgment: Appeal dismissed.

Anne W. Kimani, pro se, 38365 North Lane, Apt. G-109, Willoughby, OH 44094 (Plaintiff- Appellee).

Julius K. Nganga, pro se, 4481 West 138th Street, Cleveland, OH 44135 (Defendant-Appellant).

Charles E. Coulson, Lake County Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Appellee, Lake County Department of Job and Family Services, Child Support Enforcement Division).

DIANE V. GRENDELL, J.

{¶1} On May 7, 2009, appellant, Julius K. Nganga, filed a notice of appeal from an April 28, 2009 judgment entry of the Lake County Court of Common Pleas, Domestic

Relations Division. In that entry, the trial court found that Mr. Nganga was in contempt for failing to satisfy his child support obligation and report his employment status. Based upon this finding, the trial court sentenced Mr. Nganga to thirty days in the county jail, but also ordered that the contempt could be purged if, beginning on May 1, 2009, he would pay \$51.24 per month on the \$4,201.63 support arrearage. The entry further stated that if the trial court was notified by the child support enforcement agency by motion that Mr. Nganga had failed to purge, a hearing for the imposition of the sentence would be set.

{¶2} On May 21, 2009, appellee, the Lake County Department of Job and Family Services, Child Support Enforcement Division, filed a motion to dismiss the appeal. In its motion, appellee alleges that the order appealed is not a final order. Specifically, appellee posits that the appeal should be dismissed because there has only been a finding of contempt and the trial court has not yet found that appellant has failed to purge himself of the contempt and imposed a sentence. No response to the motion to dismiss has been filed by appellant.

{¶3} Under the case law of this state, a ruling on a contempt motion is not a final appealable order unless the trial court has made a specific finding of contempt and has imposed a penalty or sanction. *Estate of Sheehan v. Rubin*, 11th Dist. No. 2007-G-2774, 2007-Ohio-2571, at ¶4. See, also, *Chain Bike v. Spoke 'N Wheel, Inc.* (1979), 64 Ohio App.2d 62, 63; *Green v. Green*, 11th Dist. No. 2007-P-0024, 2007-Ohio-3476, at ¶4; *Heckathorn v. Heckathorn*, 5th Dist. No. 2006CA189, 2007-Ohio-5520, at ¶8.

{¶4} Here, although the appealed judgment made a specific finding of contempt and imposed a penalty, the trial court offered Mr. Nganga an opportunity to purge the

contempt. Furthermore, the appealed entry contains a reference to a hearing for the imposition of the sentence if the contempt is not purged. Therefore, it is evident that the trial court intends on conducting further proceedings before the contempt issue is concluded. Until a second order is entered by the trial court, the issue of contempt is not ripe for review. *Welch v. Welch*, 11th Dist. No. 2004-L-178, 2005-Ohio-560, at ¶5. The contemnor may file a notice of appeal after the second entry has been made by the trial court. See *Sheehan*, 2007-Ohio-2571, at ¶6.

{¶5} Based upon the foregoing analysis, appellee's motion to dismiss is granted, and this appeal is dismissed for lack of a final, appealable order.

{¶6} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

COLLEEN MARY O'TOOLE, J.,

concur.