

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

IN RE: K.S. : **MEMORANDUM OPINION**
: **CASE NO. 2015-A-0023**
:

Civil Appeal from the Ashtabula County Court of Common Pleas, Juvenile Division, Case No. 11 JI 29.

Judgment: Appeal dismissed.

Malcolm Stewart Douglas, 55 North Chestnut Street, Jefferson, OH 44047 (For Appellant, Alex Sturkie).

Philip E. Cordova, Andrews & Pontius, L.L.C., 4817 State Road, #100, P.O. Box 10, Ashtabula, OH 44005 (For Appellee, Brittany Smith).

Ariana E. Tarighati, Law Offices of Ariana E. Tarighati, 34 South Chestnut Street, #100, Jefferson, OH 44047 (Guardian ad Litem).

DIANE V. GRENDELL, J.

{¶1} Appellant, Alex Sturkie, has filed an appeal from the January 29, 2015 Judgment Entry of the Ashtabula County Court of Common Pleas, Juvenile Division, in which the court ordered that all proceedings in the matter be stayed, pending the outcome of Ashtabula County Probate Case No. 2013 AD 008. Since this judgment is not a final appealable order, we sua sponte dismiss the appeal.

{¶2} According to Section 3(B)(2), Article IV of the Ohio Constitution, a judgment of a trial court can be immediately reviewed by an appellate court only if it

constitutes a “final order” in the action. If a trial court’s judgment satisfies any of the categories in R.C. 2505.02(B), it will be considered a “final order,” which can be immediately appealed and reviewed by a court of appeals. *Germ v. Fuerst*, 11th Dist. Lake No. 2003-L-116, 2003-Ohio-6241, ¶ 3.

{¶3} R.C. 2505.02(B) provides, in pertinent part:

{¶4} “An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

“(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

“(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

* * *

“(4) An order that grants or denies a provisional remedy * * *.”

{¶5} Ohio appellate courts have repeatedly held that appeals from orders staying proceedings are not final. *Anderson v. Wojtasik*, 11th Dist. Geauga No. 2011-G-3039, 2012-Ohio-2119, ¶ 16; *Alexander v. Chandley*, 113 Ohio App.3d 435, 437, 680 N.E.2d 1317 (9th Dist.1996) (“a stay order is not a final and appealable order”); *In re Adoption of B.R.C.*, 4th Dist. Scioto No. 14CA3638, 2014-Ohio-3391, ¶ 5-10.

{¶6} Specifically, as to R.C. 2505.02(B)(1) and (2), courts have held that an order granting a stay does not “affect a substantial right, but merely puts the case on hold.” *B.R.C.* at ¶ 5; *Rymers v. Rymers*, 11th Dist. Lake No. 2009-L-180, 2010-Ohio-2684, ¶ 20. Placing a case “on hold” is not consistent with the “[t]he principal function of a final, appealable order,” which is “the termination of a case or controversy.” *Rymers*

at ¶ 20. Regarding R.C. 2505.02(B)(4), it has been held that a stay is not an ancillary proceeding, and thus not a provisional remedy, since it “is not an offshoot of the main action; it is the main action postponed.” *B.R.C.* at ¶ 9, citing *Community First Bank & Trust v. Dafoe*, 108 Ohio St.3d 472, 476, 2006-Ohio-1503, 844 N.E.2d 825.

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

{¶8} Appeal dismissed.

TIMOTHY P. CANNON, P.J.,

COLLEEN MARY O'TOOLE, J.,

concur.