

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

BURTON CAROL MANAGEMENT, LLC,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NOS. 2015-L-021
	:	and 2015-L-040
IRM B. ZIEGLER,	:	
Defendant,	:	
JOSEPH ZIEGLER,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 15 CV 000043.

Judgment: Appeals dismissed.

Michael D. Linn and Robert G. Friedman, Powers Friedman Linn P.L.L., Four Commerce Park, #180, 23240 Chagrin Boulevard, Cleveland, OH 44122 (For Plaintiff-Appellee).

Joseph Ziegler, pro se, 120 Court Street, Chardon, OH 44024 (Defendant-Appellant).

CYNTHIA WESTCOTT RICE, J.

{¶1} On March 3, 2015, appellant, Joseph Ziegler, pro se, filed a notice of appeal with this court from three separate judgment entries of the Lake County Court of Common Pleas dated February 11, 2015. In the first entry, the trial court denied appellant’s motion for severance of jury trial with co-defendant, Irm Ziegler. In a second entry, the trial court denied appellant’s “Pro Se Motion for Demand for Immediate Fair

Trial.” In the third entry, the trial court denied appellant’s “Pro Se Proffered Application for Reconsideration.” On April 10, 2015, appellant filed a separate appeal from a March 13, 2015 judgment entry, in which the trial court denied appellant’s “Proffered Pro Se Motion/Application for Preliminary Injunction.” This court consolidated the two appeals on May 5, 2015.

{¶2} We must determine whether the entries appealed from are final appealable orders. 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. *Estate of Biddlestone*, 11th Dist. No. 2010-T-0131, 2011-Ohio-1299, ¶ 3. If a lower court’s order is not final, a reviewing court has no jurisdiction to review the matter and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. of N. Am.*, 44 Ohio St.3d 17, 20 (1989). For a judgment to be final and appealable, it must satisfy the requirements of R.C. 2505.02 and, if applicable, Civ.R. 54(B).

{¶3} Pursuant to R.C. 2505.02(B), there are seven categories of a “final order,” and if the judgment of the trial court satisfies any of them, it will be deemed a “final order” and can be immediately appealed and reviewed by a court of appeals. R.C. 2505.02(B) states that:

{¶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:

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

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

{¶7} “(3) An order that vacates or sets aside a judgment or grants a new trial;

{¶8} “(4) An order that grants or denies a provisional remedy and to which both of the following apply:

{¶9} “(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

{¶10} “(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

{¶11} “(5) An order that determines that an action may or may not be maintained as a class action;

{¶12} “(6) An order determining the constitutionality of any changes to the Revised Code * * *;

{¶13} “(7) An order in an appropriation proceeding * * *.”

{¶14} For R.C. 2505.02(B)(2) to apply to the instant matter, the orders under review must be made in a special proceeding, which is defined as “an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity.” R.C. 2505.02(A)(2). This matter does not involve a special proceeding in the context of final appealable orders. Thus, R.C. 2505.02(B)(2) does not apply.

{¶15} In addition, it is clear that neither the February 11, 2015 entries, nor the March 13, 2015 entry vacate a judgment, grant a provisional remedy, deal with a class action, determine the constitutionality of Am. Sub. S.B. 281 or Sub. S.B. 80, or deal with an appropriation proceeding. Therefore, R.C. 2505.02(B)(3)-(7) do not apply.

{¶16} For R.C. 2505.02(B)(1) to apply to the appealed entries, they must affect a substantial right, determine the action, and prevent further judgment. In the instant matter, the orders involved in this appeal do not fit into this category. Mr. Ziegler is appealing the denial of his motion for severance of jury trial with his co-defendant, the denial of his motion for an immediate fair trial, the denial of his application for reconsideration, and the denial of his application for a preliminary injunction. These judgments entered by the trial court are interlocutory in nature, and the issues are not yet ripe for review.

{¶17} There was no order dismissing or terminating the case or an entry of judgment. An interlocutory order is simply not a final appealable order. This appeal has been filed prematurely. Mr. Ziegler will have a meaningful and effective remedy by means of an appeal once a final judgment is reached. See *Children's Hosp. Med. Ctr. v. Tomaiko*, 11th Dist. No. 2011-P-0103, 2011-Ohio-6838, at ¶ 5. Since the orders appealed from are not final, this court will not have jurisdiction until a final appealable order is issued.

{¶18} Based upon the foregoing analysis, the appeals are hereby, sua sponte, dismissed due to lack of jurisdiction.

{¶19} Appeals dismissed.

TIMOTHY P. CANNON, P.J.,

THOMAS R. WRIGHT, J.,

concur.