[Cite as *Clark v. Clark*, 2015-Ohio-1420.]

IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
HENRY COUNTY

TINA M. CLARK KNA DAUGHERTY,

PLAINTIFF-APPELLANT, **CASE NO. 7-14-13**

v.

DAVID B. CLARK, **O P I N I O N**

DEFENDANT-APPELLEE.

Appeal from Henry County Common Pleas Court
Domestic Relations Division
Trial Court No. 00 DR 168

Appeal Dismissed

Date of Decision: April 13, 2015

APPEARANCES:

Tina M. Clark, **Appellant**

James D. Valtin **for Appellee**

ROGERS, P.J.

{¶1} Plaintiff-Appellant, Tina Clark, n.k.a. Tina Daugherty, appeals the judgment of the Court of Common Pleas of Henry County, Domestic Relations Division, approving the magistrate's decision to adopt the Child Support Enforcement Agency's ("CSEA") recommendations, which modified the child support payment of Defendant-Appellee, David Clark. Finding that the court's entry being appealed is not a final appealable order, the appeal is dismissed.

{¶2} Tina and David were married in August 1998 and have one minor child, A.C. In January 2002, Tina and David divorced. Tina was named the residential parent and legal custodian of A.C., and David was required to pay child support in the amount of $227.48 per month.

{¶3} In April 2014, an administrative review was conducted to determine whether David's obligation should be modified. CSEA initially recommended that David's support be modified to $316.16 per month when health insurance was provided and $285.55 and $77.42 cash medical when health insurance was not provided. Tina objected to this amount and requested a hearing. After the hearing, CSEA found that David's income was approximately $39,479. CSEA recommended that David's child support be modified to $448.44 per month when health insurance was provided and $427.35 and $77.42 cash medical when health

insurance was not provided. Tina objected to this finding and requested an appeal in the Court of Common Pleas of Henry County.

{¶4} In July 2014, the magistrate issued a decision, in which he determined that the administrative hearing officer's recommendations were just and appropriate. Thus, the magistrate adopted the administrative hearing officer's recommendations in full. On August 15, 2014, Tina filed objections to the magistrate's decision.

{¶5} In the court's entry, filed on August 25, 2014, the trial court stated:

> Now, therefore, based upon the findings set out above, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:
>
> **First:** The Magistrate's Decision is approved and the Recommendations of the Administrative Hearing Officer filed herein on May 29, 2014, attached hereto as Exhibit "A" are adopted in its entirety, effective May 1, 2014.
>
> **Second:** Non-IV(D) costs are taxed to the Plaintiff.

(Boldface sic.) (Docket No. 90 p. 6).

{¶6} Tina filed this timely appeal, presenting the following assignment of error for our review.

Assignment of Error

> **THE COURT OF COMMON PLEAS OF HENRY COUNTY, OHIO ERRED IN FAILING TO IMPUTE AN INCOME TO DAVID CLARK THAT WAS CONSISTENT WITH HIS ADMITTED EARNING ABILITY AS ADMITTED AND SHOWN BY THE EVIDENCE, AFTER DAVID CLARK'S PRIOR INCOME INFORMATION PROVIDED TO CSEA**

WAS INCORRECT AND INCONSISTENT WITH HIS ACTUAL INCOME.

{¶7} Before we can reach the merits of Tina's assignment of error, we must preliminarily decide whether the trial court's entry was a final, appealable order. The Ohio Court of Appeals is only vested with appellate jurisdiction over final and appealable orders. Ohio Constitution, Article IV, Section 3(B)(2). "If a judgment appealed is not a final order, an appellate court has no jurisdiction to consider it and the appeal must be dismissed." *State v. O'Black*, 3d Dist. Allen No. 1-09-46, 2010-Ohio- 192, ¶ 4. Moreover, this court is "bound to raise any jurisdictional questions not raised by the parties." *Levinsky v. Boardman Twp. Civ. Serv. Comm.*, 7th Dist. Mahoning No. 04 MA 36, 2004-Ohio-5931, ¶ 26.

{¶8} This court has "interpreted Civ.R. 53 to require that when approving a magistrate's decision, the [trial] court must not only order that the findings of the magistrate have been adopted, but it must go one step further and enter its own judgment on the issues *originally submitted* to the court." (Emphasis sic.) *Motycka v. Motycka*, 3d Dist. Van Wert No. 15-2000-03, 2000 WL 1521205, *2 (Oct. 12, 2000), citing *Reiter v. Reiter*, 3d Dist. Hancock No. 5-98-32, 1999 WL 378354 (May 11, 1999). "Although the court need not 'parrot the magistrate's findings,' the court must, at the very least, address the issues and express the outcome and remedy in the underlying action." *Id.* "The content of the entry 'must be definite enough to be susceptible to further enforcement and provide

sufficient information to enable the parties to understand the outcome of the case.' " *Id.*, quoting *Walker v. Walker*, 9th Dist. Summit No. 12978, 1987 WL 15591, *2 (Aug. 5, 1987).

{¶9} Further, Civil Rule 54(A) provides: " 'Judgment' as used in these rules includes a decree and any order from which an appeal lies as provided in section 2505.02 of the Revised Code. *A judgment shall not contain a recital of pleadings, the magistrate's decision in a referred matter, or the record of prior proceedings*." (Emphasis added.) Attaching a magistrate's decision, or as in this case the recommendations of CSEA, does not satisfy the requirements of Civ.R. 53 and violates Civ. R. 54.

{¶10} As noted above, the court's entry ordered that the magistrate's decision was approved and the recommendations of CSEA were adopted. Although the trial court obviously conducted an independent review of the record, the court's entry failed to set forth a specific child support amount regarding David's obligation. Since the court's entry merely recites the magistrate's decision and the recommendations of CSEA, it is not a final appealable order. *See* Civ.R. 53(A); *Motycka* at *2. Consequently, we lack jurisdiction to decide the merits of this case.

{¶11} Accordingly, for the aforementioned reasons, the appeal is dismissed for lack of jurisdiction.[1]

Appeal Dismissed

PRESTON and WILLAMOWSKI, J.J., concur.

/jlr

[1] We note that this dismissal will not prevent the Appellant from refiling her appeal once the trial court does file a final order.