

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JOSEPH CHECK, ET AL	:	JUDGES:
	:	Hon: W. Scott Gwin, P.J.
Plaintiffs-Appellees	:	Hon: William B. Hoffman, J.
	:	Hon: Sheila G. Farmer, J.
-VS-	:	
	:	Case No. 2004-CA-00332
MICHAEL AND NIKKI ROSSETTI	:	
	:	
Defendants and Third-Party	:	<u>O P I N I O N</u>
Plaintiffs and-Appellees	:	
-VS-	:	
DAVID A. DOYLE, ET AL.,	:	
Third-Party Defendants	:	
and Appellants	:	

CHARACTER OF PROCEEDING: Civil appeal from the Stark County Court of
Common Pleas, Case No. 2000-CV-02186

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: July 5, 2005

APPEARANCES:

For Plaintiffs-Appellees

For Defendants-Appellants

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Gwin, P.J.

{¶1} Third-party defendants/appellants David and Karen Doyle appeal a judgment of the Court of Common Pleas of Stark County, Ohio, finding them in civil contempt for failing to abide by the terms of its prior order

{¶2} The trial court's judgment entry of October 1, 2004 found appellants in contempt of court and set an October 22 hearing date to determine the penalties. The record does not contain a judgment entry assessing any penalties against appellants.

{¶3} Pursuant to Section 3, Article IV of the Ohio Constitution and R.C. 2505.02, this court's appellate jurisdiction is limited to judgments which are final. A final order of contempt of court requires both a finding of contempt and the imposition of a penalty or sanction, see, e.g., *Noll v. Noll*, Lorain Appellate No. 01CA007932 and 01CA007976, 2002-Ohio-4154. A finding of contempt alone is not a final appealable order, see, e.g., *Bair v. Werstler*, Tuscarawas Appellate No. 2004AP080060, 2005-Ohio-1697, citations deleted.

{¶4} Although the trial court included the language "this is a final appealable order" this language cannot change a non-final order into a final appealable order, see, e.g., *Cunningham v. Allender*, Stark Appellate No. 2004CA00337, 2005-Ohio-1935.

{¶5} We find we lack jurisdiction to review this order. Accordingly, the appeal is dismissed.

By: Gwin, P.J.,
Hoffman, J., and
Farmer, J., concur

JUDGES

WSG:clw 0615

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO

FIFTH APPELLATE DISTRICT

JOSEPH CHECK, ET AL

Plaintiffs-Appellees

-VS-

MICHAEL AND NIKKI ROSSETTI

Defendants and Third-Party Plaintiffs and-Appellees

and

DAVID A. DOYLE, ET AL.,

Third-Party Defendants and Appellants

JUDGMENT ENTRY

CASE NO. 2004-CA-00332

For the reasons stated in our accompanying Memorandum-Opinion, the appeal is dismissed for lack of jurisdiction. Costs to appellant.

JUDGES