

COURT OF APPEALS  
LICKING COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO

Plaintiff-Appellee

-vs-

BRET A. FOGLE

Defendant-Appellant

JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. John W. Wise, J.

Hon. Patricia A. Delaney, J.

Case No. 2008CA00137

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Municipal Court, Case No.  
08CRB01501

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

July 16, 2009

APPEARANCES:

For Plaintiff-Appellee

TRICIA M. MOORE  
40 West Main Street  
Newark, OH 43055

For Defendant-Appellant

ANDREW T. SANDERSON  
21 West Church Street  
Suite 201  
Newark, OH 43055

*Farmer, P.J.*

{¶1} On June 26, 2008, appellant, Bret Fogle, was charged with one count of domestic violence in violation of R.C. 2919.25. Said charge arose from an incident between appellant and his wife, Lisa Darby.

{¶2} A jury trial commenced on October 13, 2008. The jury found appellant guilty as charged. By judgment entry filed October 13, 2008, the trial court sentenced appellant to one hundred eighty days in jail.

{¶3} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶4} "THE RECORD BELOW FAILS TO DEMONSTRATE THAT THE JURY WAS PROPERLY IMPANELED AND PRESENT IN THE COURT ROOM PRIOR TO THE ANNOUNCEMENT OF THE PURPORTED VERDICT."

II

{¶5} "THE DEFENDANT-APPELLANT WAS DENIED THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL."

III

{¶6} "THE CONVICTION OF THE DEFENDANT-APPELLANT WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE PRESENTED BELOW."

{¶7} At the outset, we must examine the October 13, 2008 sentencing entry in light of the Supreme Court of Ohio's decision in *State v. Baker*, 119 Ohio St.3d 200, 2008-Ohio-3330. The *Baker* court at syllabus held the following:

{¶8} "A judgment of conviction is a final appealable order under R.C. 2505.02 when it sets forth (1) the guilty plea, the jury verdict, or the finding of the court upon which the conviction is based; (2) the sentence; (3) the signature of the judge; and (4) entry on the journal by the clerk of court. (Crim.R.32(C), explained.)"

{¶9} The *Baker* court at ¶17 further held, "Only one document can constitute a final appealable order."

{¶10} Upon review of the sentencing entry, we find it does not include the "jury verdict." Therefore, it is not a final appealable order and this court lacks jurisdiction to entertain the appeal. See, Section 3(B)(2), Article IV, Ohio Constitution; R.C. 2953.02.

{¶11} Pursuant to *Baker*, the appeal is dismissed.

By Farmer, P.J.

Wise, J. and

Delaney J. concur.

s/Sheila G. Farmer

s/John W. Wise

s/Patricia A. Delaney

JUDGES

SGF/db 0701

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-vs-

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JUDGMENT ENTRY

CASE NO. 2008CA00137

For the reasons stated in our accompanying Memorandum-Opinion, the appeal is dismissed.

s/Sheila G. Farmer

s/John W. Wise

s/Patricia A. Delaney

JUDGES