

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

TARA B. HASSINGER

Plaintiff-Appellee

-VS-

RYAN C. HASSINGER

Defendant-Appellant

JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. Craig R. Baldwin, J.

Hon. Earle E. Wise, Jr., J.

Case No. 16-COA-009

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common
Pleas, Domestic Relations Division,
Case No. 15-DIV-032

JUDGMENT:

Appeal Dismissed

DATE OF JUDGMENT:

May 22, 2017

APPEARANCES:

For Plaintiff-Appellee

MATTHEW JAMES MALONE
10 East Main Street
Ashland, OH 44805

For Defendant-Appellant

RYAN C. HASSINGER, Pro Se
320 Ohio Street
Ashland, OH 44805

Wise, Earle, J.

{¶ 1} Defendant-Appellant, Ryan Hassinger, appeals the March 22, 2016 judgment entry of the Court of Common Pleas of Ashland County, Ohio, Domestic Relations Division, denying his objections and adopting the magistrate's decision. Plaintiff-Appellee is Tara Hassinger.

FACTS AND PROCEDURAL HISTORY

{¶ 2} Appellant and appellee were married on February 27, 2009. Two children were born of the marriage, R.H. born June 29, 2007, and C.H. born November 30, 2008. On February 25, 2015, appellee filed a complaint for divorce.

{¶ 3} The parties reached an agreement as to all issues except the care and disposition of the children and child support. A hearing before a magistrate was held on January 6, 2016. By decision filed February 1, 2016, the magistrate named appellee residential parent and legal custodian of the children, and ordered appellant to pay child support in the amount of \$361.25 per month.

{¶ 4} Appellant filed objections. Appellant did not provide the trial court with a transcript of the magistrate's hearing. By judgment entry filed March 22, 2016, the trial court reviewed the magistrate's findings, found them to be sufficient to support the conclusions of law, denied the objections, and adopted the magistrate's decision. The trial court ordered appellee to prepare the decree of divorce and submit the decree to the trial court.

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

I

{¶ 6} "THE TRIAL COURT COMMITTED PREJUDICIAL ERROR WHEN IT DIVESTED THE APPELLANT[']S FUNDAMENTAL RIGHT TO PARENT HIS CHILDREN WITH THE BEST INTEREST OF THE CHILD STANDARD, IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION."

II

{¶ 7} "THE TRIAL COURT COMMITTED PREJUDICIAL ERROR WHEN IT IMPEDED THE APPELLANT IN PREPARING AND LITIGATING HIS CASE, IN VIOLATION OF THE DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION."

III

{¶ 8} "THE TRIAL COURT ERRORED (SIC) IN ITS FINDINGS THAT IT WAS IN THE BEST INTEREST OF THE CHILDREN IN THIS CASE TO NAME THE APPELLEE THE SOLE RESIDENTIAL AND LEGAL CUSTODIAN AND THE COMPUTATION OF CHILD SUPPORT, AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶ 9} At the outset, we must determine if the entry appealed from is a final appealable order.

{¶ 10} Pursuant to Section 3(B)(2), Article IV of the Ohio Constitution, appellate courts can only review "judgments or final orders of the courts of record inferior to the court of appeals within the district." If a trial court's order is not final, an appellate court has no jurisdiction to review the matter and the matter must be dismissed. *General Accident Insurance Co. v. Insurance Company of North America*, 44 Ohio St.3d 17, 540

N.E.2d 266 (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).

{¶ 11} Civ.R. 54(B) is inapplicable in this case. R.C. 2505.02 governs "final orders." Subsection (B) sets forth seven categories of final orders:

(B) 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;

(3) An order that vacates or sets aside a judgment or grants a new trial;

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

(5) An order that determines that an action may or may not be maintained as a class action;

(6) An order determining the constitutionality of any changes to the Revised Code made by Am. Sub. S.B. 281 of the 124th general assembly * * *.

(7) An order in an appropriation proceeding * * *.

{¶ 12} The judgment appealed from does not involve a special proceeding, an order vacating a judgment, an order involving a provisional remedy, a class action issue,

an order determining the constitutionality of any changes to the Revised Code, or an appropriation proceeding. Therefore, R.C. 2505.02(B)(2)-(7) do not apply sub judice.

{¶ 13} In order for R.C. 2505.02(B)(1) to apply to the March 22, 2016 judgment entry, it must affect a substantial right, determine the action, and prevent further judgment. We find that it does not.

{¶ 14} In his decision filed February 1, 2016, the magistrate ordered the following: "After the appropriate objection period, Plaintiff's counsel shall prepare the appropriate Decree of Divorce, conforming to the findings and decision contained herein, and after securing the signature of Defendant, shall submit the same to the Court pursuant to the Local Rules."

{¶ 15} Thereafter, appellant filed objections. In its judgment entry filed March 22, 2016, the trial court reviewed the objections, denied the objections, and stated the following:

Pursuant to Civ. R. 53(D)(4)(b) the Court adopts the February 1, 2016 Magistrate's Decision and issues the following order:

As directed in the Magistrate's Decision, counsel for Plaintiff shall prepare the appropriate Decree of Divorce conforming to the Magistrate's Decision and ultimately submit the same to the Court, all in accordance with the Local Rules.

{¶ 16} In this case, appellee was ordered to prepare a final decree of divorce conforming to the magistrate's decision and submit the decree to the trial court, which has

not yet been done. Therefore, the March 22, 2016 judgment entry "is simply prefatory to the issuance of a final order." *Huffman v. Huffman*, 11th Dist. Lake No. 2015-L-130, 2016-Ohio-62, ¶ 19; *Beck v. Beck*, 11th Dist. Lake No. 2016-L-031, 2016-Ohio-3012, ¶ 19.

{¶ 17} Because a final judgment entry decree of divorce has not been issued by the trial court, this court is without jurisdiction to entertain appellant's appeal.

{¶ 18} Accordingly, this appeal is hereby dismissed for lack of jurisdiction.

By Wise, Earle, J.

Gwin, P.J. and

Baldwin, J. concur.

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