

[Cite as *In re K.M.*, 2006-Ohio-4878.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
Nos. 87882 & 87883

IN RE: K.M., ET AL.

**JUDGMENT:
DISMISSED**

Civil Appeals from the
Cuyahoga County Court of Common Pleas
Juvenile Division
Case Nos. AD 03900247, AD 03901895,
AD 03901896, AD 03901897 & AD 03901898

BEFORE: Corrigan, J., Dyke, A.J., and Gallagher, J.

RELEASED: September 21, 2006

JOURNALIZED:

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MICHAEL J. CORRIGAN, J.:

{¶1} Appellant, Cuyahoga County Department of Children and Family Services (“CCDCFS”), appeals the lower court’s denial of its motion for permanent custody of four minor children, continuing the order for the children’s temporary custody with CCDCFS, and ordering CCDCFS to present the lower court with an alternative plan to permanent custody for the children. Although CCDCFS asserts two assignments of error, the lower court’s order is not a final appealable order and, thus, this court lacks jurisdiction to address the assertions.

{¶2} Here, the lower court’s order continuing temporary custody of the four children “is no different from any other ‘temporary order’ that continues the status quo until the claim for relief can be determined.” *In re: Edward Wilkinson* (Mar. 8, 1996), Montgomery App. No. 15175. Indeed, “[s]uch orders necessarily decide legal issues, but they are not final, appealable orders.” *Id.* The lower court’s order does

not affect a substantial right because the ultimate relief “is yet to be determined and the facts needed to analyze the issues presented by the order will be unchanged by the ultimate disposition of the underlying action.” *Id.* Where the lower court’s order is “properly reviewable on error prosecuted to final judgment,” like the case here, the order is not a final appealable order because it does not affect a substantial right for the purposes of R.C. 2505.02. *Id.*; see, also, *Polikoff v. Adam* (1993), 67 Ohio St.3d 100, 105, 616 N.E.2d 213.

{¶3} Because the lower court’s order from which CCDCFS appeals is not a final appealable order, this court dismisses the appeal for lack of appellate jurisdiction.

Appeal dismissed.

Costs assessed against appellant Cuyahoga County Department of Children and Family Services.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MICHAEL J. CORRIGAN, JUDGE

ANN DYKE, A.J., and
SEAN C. GALLAGHER, J., CONCUR