[Cite as *Post v. Caycedo*, 2006-Ohio-6750.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

JUDY POST	C. A. No. 23123
Appellee	
v.	APPEAL FROM JUDGMENT ENTERED IN THE
RICHARD CAYCEDO	COURT OF COMMON PLEAS COUNTY OF SUMMIT, OHIO
Appellant	CASE No. 2001-06-02066

DECISION AND JOURNAL ENTRY

Dated: December 20, 2006

This cause was heard upon the record in the trial court and the following disposition is made:

BOYLE, Judge.

{¶1} Appellant, Richard Caycedo, appeals from the judgment of the Summit County Court of Common Pleas, Domestic Relations Division, which found Appellant to be the biological father of minor child, Taylor Post, ordered past and current child support, and denied his motion to dismiss and motion for third genetic test. This Court dismisses for lack of a final, appealable order.

I.

{¶2} This is the second appeal originating from the paternity action filed by Appellee, Judy Post, against Appellant. In the first appeal, Appellant raised numerous issues, including the violation of his right to counsel in a paternity

action in which the state is a party. In that appeal, we found Appellant was denied his right to counsel and the case was remanded on that issue alone.

{¶3} Upon remand, the trial court assigned the case to a visiting judge who held a trial in the matter. After considering the parties' briefs and the evidence and testimony presented at the trial, the visiting judge found Appellant to be the biological father of Taylor Post, ordered Appellant to pay past and current child support, and ordered Appellee to maintain health insurance for Taylor Post. However, there was no order with regards to past medical expenses despite Appellee's specific request and presentation of evidence for reimbursement of past medical expenses. Further, the visiting judge denied Appellant's motion for independent genetic testing and motion to dismiss. From this Order, Appellant timely appealed raising seven assignments of error.

{¶4} Prior to the filing of any appellate briefs, Appellee filed a Motion to Remand with this Court. Appellee asserted that the February 3, 2006 Judgment Entry from which Appellant was appealing was not a final, appealable order. Appellee pointed to the trial court's failure to address the outstanding request for relief of past medical bills as the grounds for no final, appealable order. Appellant filed a response brief. Based on the limited information available, this Court initially resolved the issue in favor of jurisdiction. However, we advised the parties that the final, appealable order issue would be revisited in more depth at the final disposition of the appeal.

II.

First Assignment of Error

"THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN SUMMARILY OVERRULING APPELLANT'S MOTION TO DISMISS THE COMPLAINT DUE TO LACHES."

Second Assignment of Error

"THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN NOT DISMISSING THE COMPLAINT DUE TO LACHES."

Third Assignment of Error

"THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN ISSUING A JUDGMENT FOR RETROACTIVE CHILD SUPPORT WITHOUT COMPLIANCE WITH THE STATUTORY REQUIREMENTS FOR SUCH AN ORDER CONTAINED IN OHIO REVISED CODE SECTIONS 3111.13(F)(3)(a)(i) and (ii)."

Fourth Assignment of Error

"THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN OVERRULING APPELLANT'S MOTION FOR INDEPENDENT GENETIC TESTS AT HIS EXPENSE PURSUANT TO OHIO REVISED CODE SECTIONS 3111.09(B)(3) AND (C)."

Fifth Assignment of Error

"THE TRIAL COURT'S JUDGMENT IS AGAINST THE MANIFEST WEIGHT OF [THE] EVIDENCE."

Sixth Assignment of Error

"THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION IN NOT CREDITING APPELLANT WITH CHILD SUPPORT PAYMENTS PAID TO CSEA IN DETERMINING THE AMOUNT OF APPELLANT'S RETROACTIVE CHILD SUPPORT."

Seventh Assignment of Error

"THE TRIAL COURT ERRED IN FAILING TO ATTACH, TO ADOPT OR REFER TO [THE] COMPLETED CHILD SUPPORT WORKSHEETS IN ITS FEBRUARY 3, 2006 JUDGMENT ENTRY."

{¶5} In his first assignment of error, Appellant argues that the trial court was required to hold an evidentiary hearing regarding the issue of laches in his motion to dismiss. Appellant's second assignment of error, alleges the trial court abused its discretion by failing to dismiss Appellee's complaint based on his affirmative defense of laches. In the third assignment of error, Appellant contends the paternity action was not timely filed and he did not have any knowledge of the child's birth, thus retroactive child support is not permissible. The fourth assignment of error alleges Appellant had a right to an independent genetic test at his expense. In his fifth assignment of error, Appellant alleges the trial court's decision was against the manifest weight of the evidence. Appellant's sixth assignment of error alleges the trial court's retroactive child support determination did not take into account previous payments made to CSEA by Appellant. Lastly, Appellant argues the trial court failed to attach completed child support worksheets to its judgment granting Appellee child support. We are unable to

address the merits of Appellant's errors as we find that we lack jurisdiction to hear the instant appeal.

{¶6} Before an appellate court may reach the merits of an appellant's assignments of error, it must determine whether or not the order appealed from is final and appealable. *Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.* (1989), 44 Ohio St.3d 17, 20. See Section 3(B)(2), Article IV, Ohio Constitution. Courts of appeal are required to sua sponte raise jurisdictional issues involving final, appealable orders and to dismiss all appeals that do not comport with the requirements of a final, appealable order. *In re Murray* (1990), 52 Ohio St.3d 155, 159, fn. 2.

{¶7} The determination of whether or not a judgment is final requires the appellate court to conduct a two-step analysis. *Gen. Acc. Ins. Co.*, 44 Ohio St.3d at 21. "First, it must determine if the order is final within the requirements of R.C. 2505.02. If the court finds that the order complies with R.C. 2505.02 and is in fact final, then the court must take a second step to decide if Civ.R. 54(B) language is required." Id. An order is final and appealable only if the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, are met. *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, syllabus.

{¶8} Pursuant to R.C. 2505.02(B), there are six types of "final" orders reviewable by appellate courts. Pertinent to this appeal is R.C. 2505.02(B)(2), which defines as final "[a]n order that affects a substantial right made in a special proceeding ***." The Ohio Supreme Court has held that a parentage action is a

special statutory proceeding. *State ex rel. Fowler v. Smith* (1994), 68 Ohio St.3d 357, 360. Accordingly, a trial court's judgment in a parentage action must affect a substantial right in order to be a final, appealable order. *Sexton v. Conley* (Aug. 7, 2000), 4th Dist. No. 99 CA 2655, at *2; R.C. 2505.02(B)(2).

{¶9} "[A] court's order in [a parentage] action does not affect a 'substantial right' until there is (1) a judgment establishing paternity *and* (2) an adjudication of *all support issues raised*." (Emphasis sic and emphasis added.) *Sexton*, at *2. See, also, *State ex rel. Wilkerson v. Truss* (1999), 133 Ohio App.3d 633, 635. "A judgment that leaves issues unresolved *** is not a final appealable order." *Bell v. Horton* (2001), 142 Ohio App.3d 694, 696, citing *Chef Italiano Corp.*, 44 Ohio St.3d at 90.

{¶10} In the present case, Appellee filed a paternity action against Appellant and specifically requested the following relief: (1) establish a father-child relationship between Appellant and minor child, Taylor Post; (2) judgment for past medical expenses for pregnancy, delivery and postnatal care of Taylor Post; (3) judgment for past child support; (4) order for current child support; and (5) order for Appellant to maintain health care coverage for Taylor Post. The trial court's February 3, 2006 Judgment Entry specifically addressed all of Appellee's requests for relief, except for judgment regarding prior medical expenses. The trial court found that Appellant was the biological father of Taylor Post and established a father-child relationship. Additionally, the trial court ordered

Appellant to pay Appellee $159,090.82 for past child support and $1,390.21 a month for current child support. Contrary to Appellee's request, the trial court ordered Appellee to maintain health insurance for Taylor Post. Lastly, Appellant was permitted to take Taylor Post as a dependent tax exemption. However there was no provision in the February 3, 2006 Order, either in Appellant or Appellee's favor, regarding the request for past medical expenses.

{¶11} The issue of past medical expenses remains unresolved. While the trial court established paternity and ordered past and current child support, it did not adjudicate *all* of the support issues raised in Appellee's Complaint. As the Order failed to address the propriety of past medical expenses, the February 3, 2006 Judgment Entry is not a final, appealable order under R.C. 2505.02(B)(2). See *Sexton*, at *2.

III.

{¶12} For the foregoing reasons, we conclude that Appellant has attempted to appeal from an order that is not final and appealable. Accordingly, this Court does not have jurisdiction to hear this matter and we dismiss the appeal for lack of a final, appealable order.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

EDNA J. BOYLE
FOR THE COURT

SLABY, P. J.
MOORE, J.
CONCUR

APPEARANCES:

GARY M. ROSEN, Attorney at Law, for Appellant.

ANDREW ZASHIN and ROBERT FERTEL, Attorneys at Law, for Appellee.

SHERRI BEVAN WALSH, Prosecuting Attorney, and LISA M. VITALE, Assistant Prosecuting Attorney, for Appellee.