**[Cite as *Young v. Young*, 2009-Ohio-5050.]**

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

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| BRIAN A. YOUNG | C.A. No. 08CA0058 |
| Appellant | |
| v. | APPEAL FROM JUDGMENT ENTERED IN THE |
| RACHEL C. YOUNG | COURT OF COMMON PLEAS COUNTY OF WAYNE, OHIO |
| Appellee | CASE No. 07 DR 0297 |

DECISION AND JOURNAL ENTRY

Dated: September 28, 2009

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MOORE, Presiding Judge.

**{¶1}** Appellant, Brian Young, appeals from a judgment of the Wayne County Court of Common Pleas that purported to be a ruling on the appellant's objections to a magistrate's decision that designated Appellee, Rachel Young, as the residential parent of the parties' three minor children. This Court dismisses the appeal for lack of jurisdiction.

I.

**{¶2}** Brian and Rachel Young were married on May 6, 2000 and had three children together during their marriage. On June 27, 2007, Brian filed this divorce action against Rachel and sought to enforce a separation agreement and shared parenting plan that the parties had signed earlier that year. The trial court eventually adopted the parties' separation agreement, with the exception of its provision for the allocation of parental rights because the parties reserved the right to litigate that issue.

**{¶3}** The case proceeded to a hearing before a magistrate on the allocation of parental rights and responsibilities. The magistrate determined that shared parenting was not in the best interests of the children because the parties were unable to cooperate with each other. The magistrate recommended that Rachel be designated as the residential parent and provided detailed rationale for that recommendation. Two days later, the trial court entered an independent judgment to that same effect.

**{¶4}** Brian filed several objections to the magistrate's decision and supported his objections with a transcript of the proceedings before the magistrate. The trial court later issued an order that stated, in its entirety:

> "This is a ruling on the objections filed by the plaintiff to the magistrate's decision filed June 11, 2008. In reaching its decision, the court has reviewed the magistrate's decision, memorand[a] of counsel and the transcript. The court finds that the objections should be overruled.
>
> "IT IS SO ORDERED."

**{¶5}** Brian appeals from that order and raises five assignments of error.

II.

**{¶6}** Initially, this Court must determine whether it has jurisdiction to review this appeal. Section 3(B)(2), Article IV of the Ohio Constitution limits this court's appellate jurisdiction to the review of final judgments of lower courts. "An order of a court is a final, appealable order only if the requirements of both Civ.R. 54(B), if applicable, and R.C. 2505.02 are met." *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, syllabus.

**{¶7}** R.C. 2505.02(B)(1) defines a final order to include an order that "affects a substantial right in an action that in effect determines the action and prevents a judgment[.]" For a decision to effectively determine the action, it must end the litigation and leave nothing more

for the trial court to do but execute the judgment. *Green Tree Financial Corp. v. Randolph* (2000), 531 U.S. 79, 86.

**{¶8}** Moreover, "the document purporting to be a judgment entry must disclose the present intention of the court to terminate the action and should contain a sufficiently definitive formal statement indicating such an intention." (Citations omitted.) *Vanest v. Pillsbury Co.* (1997), 124 Ohio App.3d 525, 536, fn. 4. This Court has held that a journal entry stating merely the defendant "owes" plaintiff the judgment amount did not constitute a definitive statement of relief and, therefore, did not constitute a final, appealable order. See *Estate of Tollet v. Multilink, Inc.*, 9th Dist. No. 04CA008457, 2005-Ohio-338, at ¶9.

**{¶9}** The order at issue in this appeal purported to be a ruling on the appellant's objections to the magistrate's decision. Civ.R. 53(D)(4)(d) provides that "[i]f one or more objections to a magistrate's decision are timely filed, the court shall rule on those objections." As set forth in *In Re Strickler*, 9th Dist. Nos. 08CA009375 and 08CA009393, 2008-Ohio-5813, at ¶10, this Court has interpreted that provision to require specific language stating whether each objection has been sustained or overruled. Thus, until the trial court specifically resolves objections by explicitly stating the resolution of each, no final, appealable order exists.

**{¶10}** Therefore, to constitute a final, appealable order, a journal entry disposing of objections to a magistrate's decision must explicitly rule on each of the objections and must state its ruling in definitive terms. The journal entry at issue here, although it purported to constitute the trial court's ruling on the objections, stated only that the court found that the objections "should be overruled." Although the trial court expressed its finding that the objections *ought to be* overruled, it did not include any definitive language to actually overrule them.

**{¶11}** Because the trial court's order failed to definitively rule on the objections to the magistrate's decision, it is not a final appealable order. Because this Court is without jurisdiction to hear the appeal, the appeal is dismissed.

Appeal dismissed.

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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.

CARLA MOORE
FOR THE COURT

BELFANCE, J.
CONCURS

CARR, J.
DISSENTS, SAYING:

**{¶12}** I respectfully dissent from the dismissal of this appeal. Although the majority's interpretation of the trial court's language is technically correct, I do not agree that the order is not final and appealable. Even though the trial judge used the word "should," his clear intention was to explicitly overrule the objections to the magistrate's decision and that was the

understanding of all parties to this action. I believe that the trial court's order is final and appealable and that, therefore, this Court has jurisdiction to hear this appeal on the merits.

APPEARANCES:

JOHN E. SCHOONOVER and JEANNE T. DEMONTE, Attorneys at Law, for Appellant.

PATRICIA A. RODGERS, Attorney at Law, for Appellant.

CHRISTOPHER SCHMITT, Attorney at Law, for Appellee.