[Cite as *Keith v. Keith*, 2010-Ohio-1085.]

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

EVELYN D. KEITH Appellee v. BERNARD R. KEITH Appellant	C.A. No. 09CA009657 APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF LORAIN, OHIO CASE No. 09 DR 070512

DECISION AND JOURNAL ENTRY

Dated: March 22, 2010

MOORE, Judge.

{¶1} Appellant, Bernard Keith, appeals from the decision of the Lorain County Domestic Relations Court. This Court dismisses for lack of jurisdiction.

I.

{¶2} Bernard Keith and Evelyn Keith were married on April 4, 2004. They had no children. On April 15, 2009, Appellee, Wife, filed her complaint for divorce. At the time of filing, Husband, was incarcerated. A case management conference was scheduled. Husband sought to continue the case management conference due to the fact that he was incarcerated. Husband's term of incarceration, however, was increased and accordingly, he acknowledged that his motion for a continuance was moot. Husband had filed several motions prior to the case management conference, including a motion for spousal support, and a request for a restraining order. The trial court denied these motions. Husband also filed a request for a court order permitting him to appear via teleconference call on the date of the case management conference.

The trial court did not address this motion. A case management conference was held. Husband was not in attendance. Subsequently, Husband filed several motions, including a motion seeking leave from observing the requirement of electronic filing pursuant to Civ.R. 33(A), a request for re-scheduling/postponement of the final hearing, a request that the trial court make a property determination, a request for an order to convey to attend the final hearing, a request for division of property order, and two requests to participate in the final hearing via telephone. The trial court did not rule on these motions prior to the final hearing, which was held on July 21, 2009. By journal entry issued on July 22, 2009, the trial court granted the divorce. Husband timely appealed from this order, raising seven assignments of error for our review. We have combined his assigned errors for ease of review.

II.

ASSIGNMENT OF ERROR I

"THE TRIAL COURT ABUSED IT'S [SIC] DISCRETION AND ERRED TO THE DETRIMENT OF APPELLANT, BERNARD R. KEITH."

ASSIGNMENT OF ERROR II

"TRIAL COURT DID NOT ADDRESS OR DISPOSE OF ALL PROPERTY AND NEGLECTED TO FULLY CARRY OUT IT'S [SIC] RESPONSIBILITIES IN ALL ASPECTS OF THE JUDGMENT."

ASSIGNMENT OF ERROR III

"COURT DID NOT MAKE WRITTEN FINDINGS OF FACT TO SUPPORT THE INEQUITABLE DIVISION OF PROPERTY."

ASSIGNMENT OF ERROR IV

"COURT MADE NO DETERMINATION AS TO THE VALUE OF VEHICLES OR HOUSEHOLD GOODS OR TO WHOM THE HOUSEHOLD GOOD [SIC] WERE TO BE AWARDED TO [SIC]."

ASSIGNMENT OF ERROR V

"COURT DID NOT IDENTIFY THE ACCOUNTS OR AMOUNTS OF DEBTS OWED IN SUFFICIENT ENOUGH DETAIL TO BE ADDRESSED BY [HUSBAND] OR REVIEWED ON APPEAL."

ASSIGNMENT OF ERROR VI

"TRIAL COURT FAILED TO ADDRESS MATTER OF SPOUSAL SUPPORT AT FINAL HEARING AS INDICATED IN JOURNALIZED ENTRY OF 6-5-09."

ASSIGNMENT OF ERROR VII

"THE JUDGMENT OF DIVORCE IS IN ERROR. THE ALLOCATING ½ LIABILITY TO [HUSBAND] FOR MARITAL DEBT ALLEDGEDLY [SIC] OWED TO FIRSTMERIT BANK IN THE APPROXIMATE AMOUNT OF $531.00, IN THE NAME OF BOTH PARTIES IS A FALSE DETERMINATION. THEREFORE THE JUDGMENT IS INCORRECT, INVALID AND VOID."

{¶3} As a threshold issue, we are required to raise sua sponte issues pertaining to our jurisdiction.

{¶4} The Ohio Constitution limits an appellate court's jurisdiction to the review of final judgments of lower courts. Section 3(B)(2), Article IV. Accordingly, this Court has jurisdiction to review only final and appealable orders. See *Harkai v. Scherba Industries, Inc.* (2000), 136 Ohio App.3d 211, 219. A divorce decree, which leaves issues unresolved, is not a final order. *Muhlfelder v. Muhlfelder* (March 15, 2002), 11th Dist. Nos. 2000-L-183, 2000-L-184, at *1. Civ. R. 75(F), in part, provides that a trial court:

"*** shall not enter final judgment as to a claim for divorce, dissolution of marriage, annulment, or legal separation unless one of the following applies:

"(1) The judgment also divides the property of the parties, *determines the appropriateness of an order of spousal support*, and, where applicable, either allocates parental rights and responsibilities, including payment of child support, between the parties or orders shared parenting of minor children[.]"

"(2) Issues of property division, spousal support, and allocation of parental rights and responsibilities or shared parenting have been finally determined in orders,

> previously entered by the court, *that are incorporated into the judgment*[.]" (Emphasis added.)

{¶5} In the instant case, the trial court's July 22, 2009 journal entry does not mention spousal support. Husband points to a June 5, 2009 trial court order denying his request for spousal support. The order further indicated that it would revisit the issue at the final hearing. However, as we have stated, pursuant to the July 22, 2009 journal entry, there is no indication that this occurred.

{¶6} As the trial court had previously denied spousal support, Civ.R. 75(F)(2) required it to somehow incorporate the prior entry into its final judgment. *Freeman v. Freeman*, 9th Dist. No. 06CA0049, 2007-Ohio-1351, at ¶8 (concluding that the trial court's final judgment decree of divorce failed to incorporate the parties' resolution of the spousal support issue as previously determined.) Again, there is no mention of spousal support in the July 22, 2009 journal entry, or any language evidencing an intention to incorporate the June 5, 2009 order denying spousal support. "Accordingly, the final divorce decree does not comply with Civ. R. 75(F)(2) and does not constitute a final and appealable order." Id. at ¶9, citing *Nolan v. Nolan*, 11th Dist. No. 2003-G-2553, 2004-Ohio-6941, at ¶11; *Rose v. Rose* (Nov. 7, 2001), 9th Dist. No. 3194-M, at *2 (noting that Civ.R. 75(F)(1) requires the final decree to determine the appropriateness of an order for spousal support except where the issue had been previously decided and the decision is incorporated into the final judgment pursuant to Civ.R. 75(F)(2)); *Drummond v. Drummond*, 10th Dist. No. 02AP-700, 2003-Ohio-587, at ¶15 (holding "[a]lthough a domestic court is permitted to issue separate decisions upon various issues, these determinations must all be incorporated into one final judgment" pursuant to Civ.R. 75(F)(2)).

{¶7} Although a determination that the divorce decree was not a final appealable order renders this Court without jurisdiction to review Husband's remaining assignments of error, "we

feel compelled to make some further observations that should be taken into consideration upon remand." *Drummond*, at ¶15 (dismissing for lack of a final appealable order). The trial court's decree of divorce does not appear to satisfy the mandate of R.C. 3105.171(G), which required the trial court to issue "written findings of fact that support the determination that the marital property has been equitably divided." The values associated with the martial assets and liabilities must be stated in sufficient detail to allow meaningful appellate review. *Nickel v. Nickel*, 5th Dist. No. 2004CA00072, 2005-Ohio-3050, ¶28. Notably absent is the amount of debt owed to A&E Auto Sales for the repossession of the 1996 Ford Contour, and the value of the 1995 Chevy Blazer. Similarly, a conclusory statement that the personal property of the parties was equally distributed between the parties is not enough to allow this Court to meaningfully review the award. The personal marital property, however modest, has some identifiable value. These assets must be identified so that this court is able to conduct meaningful review. Without these details, a reviewing court cannot determine whether the trial court equally divided the marital property. *Kaechele v. Kaechele* (1988), 35 Ohio St.3d 93, 97.

{¶8} As we find that the trial court's entry is not a final, appealable order, we are without jurisdiction to review the merits of Husband's assignments of error.

III.

{¶9} Based on the foregoing, this Court lacks jurisdiction and we hereby dismiss the instant 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.

CARLA MOORE
FOR THE COURT

BELFANCE, P. J.
CONCURS

CARR, J.
CONCURS IN JUDGMENT ONLY, SAYING:

{¶10} I concur in judgment only because the trial court's judgment does not constitute a final, appealable order and this Court lacks jurisdiction to consider the appeal.

APPEARANCES:

BERNARD R. KEITH, pro se Appellant.

JESSICA BAGGETT, Attorney at Law, for Appellee.