

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY**

JAMES R. PERKINS,

Plaintiff-Appellee,

- vs -

STACY L. PERKINS,

Defendant-Appellant.

CASE NO. 2023-G-0017

Civil Appeal from the
Court of Common Pleas

Trial Court No. 2021 DC 000157

MEMORANDUM
OPINION

Decided: August 21, 2023
Judgment: Appeal dismissed

Michael Drain, Jr., 147 Bell Street, Suite 202, Chagrin Falls, OH 44022 (For Plaintiff-Appellee).

Gregory S. Costabile, 1400 Fifth Third Center, 600 Superior Avenue, East, Cleveland, OH 44114 (For Defendant-Appellant).

ROBERT J. PATTON, J.

{¶1} Appellant, Stacy L. Perkins, through counsel, appeals from a May 3, 2023 entry, in which the Geauga County Court of Common Pleas ordered that the objections to the magistrate’s decision filed by appellee, James R. Perkins, were sustained in part. The trial court stated that the magistrate did not err in granting the parties a divorce or in granting the shared parenting plan. The court ordered that the matter be set for a new trial regarding the division of property, attorney fees, child and medical support obligations, and appellee’s disability, employment, pension, and separate property claims.

{¶2} This court issued an entry ordering appellant to show cause why this appeal should not be dismissed for lack of a final appealable order. Appellant filed a brief in

support of jurisdiction indicating that the entry affects a substantial right. Appellee filed a brief in opposition indicating that there is no final order.

{¶3} A trial court’s judgment is immediately appealable if it constitutes a final order. Section 3(B)(2), Article IV of the Ohio Constitution; *Gale v. Gale*, 11th Dist. Lake No. 2019-L-093, 2019-Ohio-5055, ¶ 3. If a lower court’s order is not final, an appellate court has no jurisdiction, and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. of N. Am.*, 44 Ohio St.3d 17, 20 (1989). In the absence of other applicable authority conferring jurisdiction, a judgment must satisfy R.C. 2505.02 to be final and appealable. See *Nelson v. Nelson*, 11th Dist. Lake No. 2020-L-108, 2021-Ohio-33, ¶ 3.

{¶4} R.C. 2505.02(B) defines a final order as one of the following:

{¶5} “(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

{¶6} “(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

{¶7} “(3) An order that vacates or sets aside a judgment or grants a new trial;

{¶8} “(4) An order that grants or denies a provisional remedy and to which both of the following apply:

{¶9} “(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

{¶10} “(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

{¶11} “(5) An order that determines that an action may or may not be maintained as a class action;

{¶12} “(6) An order determining the constitutionality of any changes to the Revised Code * * *;

{¶13} “(7) An order in an appropriation proceeding * * *.”

{¶14} In this case, the May 3, 2023 entry does not fit within any of the categories for being a final order pursuant to R.C. 2505.02(B). Furthermore, no divorce decree has been issued. Generally, in a divorce action, no final appealable order exists until all issues relating to property division, support and parental rights and responsibilities have been addressed. *Miller v. Miller*, 11th Dist. Portage No. 2003-P-0065, 2003-Ohio-6765, at ¶ 3. An entry that leaves issues unresolved and contemplates further action is not final. See *Montalbine v. Montalbine*, 11th Dist. Lake No. 2022-L-020, 2022-Ohio-1464, ¶ 14. Here, since the entry on appeal leaves issues unresolved and further action is contemplated, this court is without jurisdiction to consider the merits. Appellant will have a meaningful and effective remedy by means of an appeal once a final judgment is reached.

{¶15} Based upon the foregoing analysis, the judgment of the trial court is not a final appealable order, and this appeal is dismissed, sua sponte, for lack of jurisdiction.

{¶16} Appeal dismissed.

JOHN J. EKLUND, P.J.,

MARY JANE TRAPP, J.,

concur.