

Rel: December 10, 2021

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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2021-2022

2200693

Shannon Mae Ryals

v.

James Daniel Edward Ryals

Appeal from Elmore Circuit Court
(DR-13-900080.01)

THOMPSON, Presiding Judge.

Shannon Mae Ryals ("the mother") appeals the judgment of the Elmore Circuit Court ("the trial court") granting a petition for

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modification of custody and child support filed by James Daniel Edward Ryals ("the father"). We dismiss the appeal as being from a nonfinal judgment.

In April 2013, the trial court entered a judgment that divorced the father and the mother. The parties' settlement agreement was incorporated into the divorce judgment. In that agreement the parties stipulated, among other things, that they would share joint custody of their minor child and that neither party would pay child support to the other because of the shared equal custodial time.

On July 7, 2020, the father filed a petition, asking the trial court, among other things, to award the father sole physical custody of the child and child support. On July 9, 2020, the mother filed her answer. After conducting a trial, the trial court, on May 10, 2021, entered an order finding, among other things, that a material change in circumstances had occurred that warranted a change in custody and awarding the father sole physical custody of the child. On May 16, 2021, the father filed a purported motion to alter, amend, or vacate the May 10, 2021, order, arguing that the trial court had failed to award him child support. On

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May 26, 2021, the trial court entered an order granting the father's motion and directing each party to file a Form CS-41 "Child-Support-Obligation Income Statement/Affidavit" so that it could accurately determine an award of child support. On June 3, 2021, the mother filed her notice of appeal. On June 21, 2021, the trial court entered an order purporting to direct the mother to pay the father child support in the amount of \$504 per month.

Before we can address the issues raised by the mother on appeal, we must determine whether this court has jurisdiction to consider this appeal.

" ' "It is well settled law that 'jurisdictional matters are of such magnitude that we take notice of them at any time and do so even ex mero motu.' " Pace v. Utilities Bd. of Foley, 752 So. 2d 510, 511 (Ala. Civ. App. 1999) (quoting Singleton v. Graham, 716 So. 2d 224, 225 (Ala. Civ. App. 1998)). ... Additionally, "[t]he question whether a judgment is final is a jurisdictional question, and the reviewing court, on a determination that the judgment is not final, has a duty to dismiss the case." Hubbard v. Hubbard, 935 So. 2d 1191, 1192 (Ala. Civ. App. 2006).'

"Parker v. Parker, 946 So. 2d 480, 485 (Ala. Civ. App. 2006)."

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Logan v. Logan, 40 So. 3d 721, 723 (Ala. Civ. App. 2009).

In Dubose v. Dubose, 72 So. 3d 1210 (Ala. Civ. App. 2011), this court dismissed the appeal because, we determined, the challenged judgment, which did not include the amount of child support to be paid, was nonfinal. We stated:

"To be considered final, a judgment ordering one of the parties to pay child support must, among other things, set forth the amount of the party's child-support obligation. This is so, because '[w]here a party has requested child support and the trial court's purported judgment contains no conclusive assessment of the child-support obligation, the trial court has not completely adjudicated the matters in controversy between the parties.' Anderson v. Anderson, 899 So. 2d 1008, 1009 (Ala. Civ. App. 2004). See also Turner v. Turner, 883 So. 2d 233, 234 (Ala. Civ. App. 2003) (judgment not final when, among other things, it did not contain a 'conclusive assessment' of the father's child-support obligation)."

Dubose, 72 So. 3d at 1211.

Here, the trial court, in its May 26, 2021, order, awarded child support to the father but did not provide the exact amount of the mother's child-support obligation. Accordingly, that order was not a final judgment, and the mother's June 3, 2021, notice of appeal did not invoke this court's jurisdiction because it sought review of a nonfinal judgment.

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Additionally, the mother's filing of a notice of appeal divested the trial court of jurisdiction over the case, and, thus, the trial court no longer had jurisdiction to determine the amount of the mother's child-support obligation until the appeal had been adjudicated. See Ward v. Ullery, 412 So. 2d 796, 797 (Ala. Civ. App.1982)("Once an appeal is taken, the trial court loses jurisdiction to act except in matters entirely collateral to the appeal."). Therefore, the trial court's June 21, 2021, order determining the exact amount of the mother's child-support obligation is a nullity. See Etheredge v. Genie Indus., Inc., 632 So. 2d 1324, 1325 (Ala. 1994).

Because the trial court had not adjudicated all the issues in this case at the time the mother filed her notice of appeal, this court does not have a valid, final judgment to review, and, accordingly, this appeal is dismissed. See Morgungenko v. Dwayne's Body Shop, 23 So. 3d 671, 674 (Ala. Civ. App. 2009)("This court must dismiss an appeal from a nonfinal judgment."); Horton v. Horton, 822 So. 2d 431, 434 (Ala. Civ. App. 2001); and Young v. Sandlin, 703 So. 2d 1005, 1008 (Ala. Civ. App. 1997).

APPEAL DISMISSED.

Moore, Edwards, Hanson, and Fridy, JJ., concur.