Not Designated for Publication

DIVISION I

ARKANSAS COURT OF APPEALS

No. CA 06-1499

DIANE CROCKETT EDWARDS APPELLANT V. ROBERT LEE EDWARDS APPELLEE	**Opinion Delivered** October 24, 2007 APPEAL FROM THE COLUMBIA COUNTY CIRCUIT COURT [NO. DR-04-320-5] HONORABLE LARRY W. CHANDLER, JUDGE DISMISSED

SARAH J. HEFFLEY, Judge

Appellant, Diane Edwards, and appellee, Robert Edwards, were divorced pursuant to a decree filed August 18, 2006. Appellant now appeals from that decree, arguing that: (1) the trial court abused its discretion in failing to award her alimony; (2) the trial court erred in failing to make provision for health insurance and other health care expenses for the parties' two minor children; (3) the trial court erred in failing to award her a portion of certain cash withdrawals made by appellee prior to the divorce.[1] We hold that the order appellant has appealed from is not a final, appealable order, and we therefore dismiss.

The parties were married on August 9, 1986. During the first half of the parties' nineteen-year marriage, appellant attended nursing school and obtained an R.N. degree, and

[1] In the months prior to the parties' separation and the commencement of divorce proceedings, appellee withdrew over $97,000 from the parties' joint bank accounts.

appellee completed his residency and began working as a radiologist. In 1997, the couple adopted a newborn daughter, and appellant quit working to be a stay-at-home mother. The parties adopted a second newborn daughter in 1999.

On December 15, 2004, the parties separated, and appellant filed a complaint for divorce on December 17, 2004. A hearing was held on the matter on April 4, 2005, and the court issued a temporary order requiring appellee to pay spousal support in the amount of $1,236 every two weeks and child support in the amount of $1,298 every two weeks. Appellee was also ordered to continue to provide health insurance for the children and to pay half of any health care costs not covered by insurance.

Several hearings were conducted over the course of the next sixteen months, during which time the trial court reserved determining the issue of alimony. A final divorce decree was entered on August 18, 2006. In the decree, appellant was given custody of the parties' children, subject to visitation by appellee, and appellee was ordered to pay child support in the amount of $1,298 every two weeks. The decree was silent as to health insurance and other health care costs for the children. Appellee was ordered to pay appellant $3,708 for spousal support in arrearages from the temporary order, but the order was silent as to any future alimony. The decree ordered the final disposition of several Individual Retirement Accounts (IRAs) belonging to the parties and awarded appellant sixty percent of the value of those accounts. Finally, the trial court declined to award appellant a portion of the value of various cash withdrawals made by appellee prior to the separation of the parties.

On August 28, 2006, appellant filed a motion for an amendment of findings of fact

and conclusions of law, for additional findings of fact and conclusions of law, and for reconsideration, amendment of the decree, and a new trial, if necessary for the disposition of issues raised in the motion. In her motion, appellant argued that the court had failed to address the issues of alimony and health insurance and other health care expenses of the children, and the court had refused to divide the cash withdrawals made by appellee. In an order filed September 15, 2006, the trial court granted appellant's motion for an amendment of findings of fact and conclusions of law, for additional findings of fact and conclusions of law, and for reconsideration. Appellant's motion for a new trial was denied. In its order, the court stated that "[a] hearing date will be scheduled as soon as the court and counsel can agree on a date and time." The record in this case indicates no further activity, however, and a notice of appeal to this court was filed on October 9, 2006.

Rule 2(a)(1) of the Appellate Rules of Procedure-Civil provides that an appeal may be taken from a final judgment or decree entered by the circuit court. Whether a final judgment, decree, or order exists is a jurisdictional issue that this court has a duty to raise, even if the parties do not, in order to avoid piecemeal litigation. *Roberts v. Roberts*, 70 Ark. App. 94, 14 S.W.3d 529 (2000). The test of finality and appealability of an order is whether the order puts the court's directive into execution, ending the litigation or a separable part of it. *Villines v. Harris*, 362 Ark. 393, 208 S.W.3d 763 (2005). For a judgment to be final, it must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy. *Roberts, supra.* Where the order appealed from reflects that further proceedings are pending, which do not involve merely collateral matters,

the order is not final. *Villines, supra.* Even though an issue on which a court renders a decision might be an important one, an appeal will be premature if the decision does not, from a practical standpoint, conclude the merits of the case. *Farrell v. Farrell*, 359 Ark. 1, 193 S.W.3d 734 (2004).

Based on this standard, we find that the divorce decree in this case does not meet the requirements of a final order. The trial court's subsequent order granting appellant's motion for an amendment of findings of fact and conclusions of law, for additional findings of fact and conclusions of law, and for reconsideration clearly illustrates that the decree did not conclude the parties' rights to the subject matter in controversy, most notably in the matters of alimony and health care costs and insurance for the children. The order entered on September 15, 2006, undeniably contemplates further proceedings to clarify and decide these issues, and it is premature for this court to consider these issues before the trial court has entered its final order on the matter. From a practical standpoint, the merits of the case were not concluded in the divorce decree; therefore, we dismiss without prejudice.

Dismissed.

GLOVER and VAUGHT, JJ., agree.