RENDERED: APRIL 8, 2005; 2:00 P.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-002331-MR

ROBERT STANLEY — APPELLANT

v.

APPEAL FROM JEFFERSON FAMILY COURT
HONORABLE ELEANORE GARBER, JUDGE
ACTION NO. 92-FD-000771

YVONNE STANLEY — APPELLEE

OPINION AND ORDER
DISMISSING

** ** ** ** **

BEFORE: COMBS, CHIEF JUDGE; DYCHE AND KNOPF, JUDGES.

COMBS, CHIEF JUDGE: Robert L. Stanley has appealed from an order of the Jefferson Family Court of September 30, 2003, which denied his motion for a reduction in his child support obligation. It also denied in part his motion to vacate a previous order of the court pursuant to the provisions of CR[1] 60.02(a) and (e). Because we conclude that the order at issue is not final or appealable, we dismiss the appeal.

[1] Kentucky Rules of Civil Procedure.

Robert Stanley and Yvonne Stanley were married on August 21, 1980. Four children were born of the marriage. Yvonne filed a petition for divorce in the Jefferson Circuit Court in April 1992, and a decree of dissolution was entered in July 1992. The parties were awarded joint custody of the children, and Robert was ordered to pay to Yvonne $113.50 per week for their support.

In June 2002, Yvonne filed a motion requesting that Robert's child support obligation for three minor children be increased and that Robert be ordered to pay his share of the children's extraordinary medical and dental expenses. Those expenses had accrued to several thousand dollars.

Following an evidentiary hearing, the domestic relations commissioner filed his report on September 4, 2002. The commissioner recommended that Robert's child support be increased to $187.00 per week for the period of June 28 to September 7, 2002 (the second child's eighteenth birthday) and then reduced to $144.60 per week (for the remaining two minor children). The commissioner also recommended that Yvonne be awarded a judgment against Robert in the amount of $4,232.75 for his share of the children's extraordinary medical and dental expenses. In an order entered September 24, 2002, the Jefferson Family Court adopted the commissioner's findings and recommendations.

On May 14, 2003, Robert, *pro se*, filed a motion requesting that his child support and insurance obligation be reviewed. On July 10, 2003, Robert's motion was amended by counsel to request that the court's order of September 24, 2002, be vacated pursuant to the provisions of CR 60.02. In support of the amended motion, Robert contended that he had failed to receive the commissioner's report and that consequently he had not filed his exceptions to the findings. He maintained that he also had failed to receive the court's order adopting the report.

Robert contended separately that his child support obligation should be reduced since he had lost his job and was earning substantially less money at a new position. In addition, he challenged the legitimacy of the records that Yvonne had submitted during the 2002 hearing in support of her claim for the children's extraordinary medical expenses, contending that the total sum as determined by the commissioner was inaccurate. He believed that the total unpaid expenses amounted only to $2,834.28. Robert also claimed to have overpaid his child support obligation by more than $3,000.00, an amount for which he urged that he was entitled to a credit against the judgment.

In an order entered September 30, 2003, the Jefferson Family Court rejected Robert's claim that he had failed to

receive notice of the court's order of September 24, 2002. The court also denied his motion for relief with respect to the award of $4,232.75 to Yvonne. Concluding that Robert had shown a clerical mistake in the amount of $5.03 in his favor, the court credited him in this amount. The court determined that the commissioner had properly considered Yvonne's evidence regarding the children's extraordinary medical expenses and ruled that Robert had been afforded a fair opportunity to refute that evidence at the 2002 hearing. Finally, the court denied Robert's motion to modify his child support obligation.

However, the court was persuaded that Robert was entitled to a credit with respect to his overpayment to Yvonne of the costs of the children's health insurance. Yvonne acknowledged at the hearing that Robert had been paying her $40.00 per week in order to reimburse her for carrying the children's health insurance through her employer. She explained that the $40.00 had included her health insurance premium as well. The court found as follows:

> [Yvonne] has submitted documentation indicating that her insurance through Anthem HMO costs $79.85 every two weeks to cover herself and her children. The documents indicate that employee-only coverage is provided at a cost of $23.60 every two weeks. Therefore, [Robert] is entitled to a credit of $11.53 per week towards the common law judgment. However, there is no indication in the record as to how long [Robert] has been reimbursing [Yvonne] for

> this coverage. Therefore, the Court has insufficient information from which to base its determination of the amount of credit to which [Robert] is entitled. The issue will be remanded with instructions to [Robert] to provide evidence of when he began reimbursing [Yvonne] for the health insurance premium.

The court granted Robert's request that he be given a credit against the judgment for that portion of the health insurance premium covering Yvonne alone. However, the order provided as follows:

> [Robert's] Motion for Entry of Satisfaction of Judgment pursuant to CR 60.02(e) is GRANTED to the extent that [Robert] is entitled to a credit for that portion of the health insurance premium attributed to [Yvonne's] share, or $11.53 per week. The issue shall be remanded pending submission of documentation indicating when [Robert] began reimbursing [Yvonne] for said premium payments.

Robert's motion to reconsider was denied, and his appeal followed.

This court has jurisdiction over appeals from final judgment or orders of circuit courts. KRS[2] 22A.020(1). "A final or appealable judgment is a final order adjudicating all the rights of all the parties in an action or proceeding, or a judgment made final under Rule 54.02." CR 54.01. CR 54.02 provides as follows:

[2] Kentucky Revised Statutes.

> When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may grant a final judgment upon one or more but less than all of the claims or parties only upon a determination that there is no just reason for delay. The judgment shall recite such determination and shall recite that the judgment is final. In the absence of such recital, any order or other form of decision, however designated, which adjudicates less than all the claims or the rights and liabilities of less than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is interlocutory and subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

The court's order did not adjudicate all of the rights of the parties. Therefore, the judgment was interlocutory and nonappealable and could only be made final and appealable by satisfying the provisions of CR 54.02(1). The court's order of September 30, 2003, did not contain the finality language prescribed by the provisions of CR 54.02; nor did it recite the determination that there was no just reason for delay as mandated by the rule.

The order entered in this case resolved issues that might ultimately come before the court. However, it expressly did not resolve Robert's claim that he was entitled to credit for his overpayment of insurance premiums. As the court noted

in its order, its ruling was dependent upon additional presentation of evidence and a finding with respect to Robert's payment of Yvonne's insurance premiums. No final determination on this issue had been made when the appeal was filed, and the omission of the requirements of CR 54.02(1) is fatal. Hale v. Deaton, 528 S.W.2d 719 (Ky. 1975). As we noted in Bellarmine College v. Hornung, 662 S.W.2d 847, 848 (Ky.App. 1983),

> [s]ound judicial administration requires the avoidance of piecemeal dispositions of cases, and appellate courts must not be indiscriminately thrust into the processes of single-party or single-claims trial until they are final.

As we are without jurisdiction to consider the appeal, it must be dismissed.

Therefore, being sufficiently advised, this court ORDERS that the appeal be, and it is hereby, DISMISSED.

ALL CONCUR.

/s/ Sara Combs
CHIEF JUDGE

ENTERED: April 8, 2005

BRIEF FOR APPELLANT:

Sherry Hoard Long
Louisville, Kentucky

BRIEF FOR APPELLEE:

David M. Feldkamp
Louisville, Kentucky