

Commonwealth of Kentucky

Court of Appeals

NO. 2008-CA-001703-MR

BILLY JOE SKAGGS

APPELLANT

v. APPEAL FROM MEADE CIRCUIT COURT
HONORABLE BRUCE T. BUTLER, JUDGE
ACTION NO. 08-CI-00251

MICHELLE ANN SKAGGS (now Smith)

APPELLEE

OPINION AND ORDER
DISMISSING

** ** * ** * ** *

BEFORE: LAMBERT AND VANMETER, JUDGES; HENRY,¹ SENIOR
JUDGE.

VANMETER, JUDGE: Billy Joe Skaggs appeals *pro se* from an August 22, 2008
order of the Meade Circuit Court. The appeal is dismissed, as the order from

¹ Senior Judge Michael L. Henry sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

which Skaggs attempts to appeal is not a final and appealable order. As noted by

Kentucky's highest court:

The failure to comply with CR² 54.02(1) impels us to dismiss the appeal, because it is apparent from the record that other matters remain to be adjudicated in the trial court, and the judgment from which the present appeal is attempted does not meet the test for a final judgment as prescribed in CR 54.01 since it does not adjudicate the rights of all the parties in the action.

Signer v. Arnold, 436 S.W.2d 493, 494 (Ky. 1969).

In this case, the court's August 22, 2008 order provides that "the Petitioner's motion for attorney fees and costs will not be ruled on this date and can be revisited at the conclusion of the matters in this action." Clearly, at the time of the court's order, other matters remain to be adjudicate in the trial court. Thus, the order from which Skaggs attempts to appeal does not meet the test for a final judgment.

The appeal is DISMISSED.

ALL CONCUR.

ENTERED: March 5, 2010

/s/ Laurance B. VanMeter
JUDGE, COURT OF APPEALS

² Kentucky Rules of Civil Procedure.

BRIEF FOR APPELLANT:

Billy Joe Skaggs, *Pro se*
Guston, Kentucky

BRIEF FOR APPELLEE:

Darren Sipes
Brandenburg, Kentucky