

**IN THE COURT OF APPEALS**  
**ELEVENTH APPELLATE DISTRICT**  
**ASHTABULA COUNTY, OHIO**

AURORA LOAN SERVICES, LLC,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2010-A-0023</b>
CHRISTINE CART, a.k.a. CHRIS	:	
CART, et al.,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2008 CV 664.

Judgment: Appeal dismissed.

*Adam R. Fogelman*, Lerner, Sampson & Rothfuss, L.P.A., 120 East Fourth Street, 8th Floor, P.O. Box 5480, Cincinnati, OH 45202 (For Plaintiff-Appellee).

*Christine Cart*, pro se, 7234 State Route 45, Orwell, OH 44076 (Defendant-Appellant).

DIANE V. GRENDELL, J.

{¶1} On May 28, 2010, appellant, Christine Cart, pro se, instituted the instant matter with this court through the filing of a notice of appeal. In the section of the notice of appeal that requires the appealing party to describe the nature of the action, Ms. Cart referred solely to the writ of possession. A review of the docket in the foreclosure case indicates that a writ of possession was issued to the sheriff on May 20, 1020.

{¶2} A review of the writ of possession shows that it was not signed or approved by the trial court or judge; instead, the document was executed only by a deputy for the clerk of courts. Furthermore, the trial court docket reveals that the writ

was rendered in response to a praecipe in which appellee, Aurora Loan Services LLC, requested the clerk of courts to perform that act. Finally, it should be noted that the trial court confirmed the sheriff's sale and ordered the issuance of a writ of possession in its prior judgment of January 9, 2009.

{¶3} Pursuant to Section 3(B)(2), Article IV of the Ohio Constitution, an appellate court has the authority to review “judgments or final orders of the courts of record inferior to the court of appeal within the district \*\*\*.” Here, Ms. Cart has not sought to appeal a new judicial ruling made by the trial court in the underlying action. Rather, her present appeal is based upon a purely ministerial act performed by the clerk of courts.

{¶4} As to the foregoing point, this court would note that Civ.R. 70 states that when a judgment or order has been issued regarding the possession of real or personal property, the prevailing party is entitled to a writ of execution “upon application to the clerk.” See, also, R.C. 2327.02(C). Under this procedure, the clerk of courts does not exercise any type of discretion which would be viewed as judicial in nature. Instead, the clerk's role is limited to the perfunctory act of issuing the writ of possession in execution of the trial court's prior order.

{¶5} Thus, Ms. Cart has not properly invoked this court's jurisdiction by basing this appeal upon the issuance of the writ of possession. In light of the foregoing, this appeal is hereby sua sponte dismissed due to lack of a final appealable order.

{¶6} Appeal dismissed.

MARY JANE TRAPP, P.J., concurs,  
COLLEEN MARY O'TOOLE, J., concurs in judgment only.