

[Cite as *In re K.H.*, 2021-Ohio-2612.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
PIKE COUNTY

IN THE MATTER OF: :
K.H., A.C., AND K.H., : CASE NO. 20CA908
: 20CA909
Adjudicated Dependent : 20CA910
and Neglected Children. :
: DECISION & JUDGMENT ENTRY
:

APPEARANCES:

Karyn Justice, Portsmouth, Ohio, for Appellant.

Lauren E. Coriell, Waverly, Ohio, for Appellee.

CIVIL CASE FROM COMMON PLEAS COURT, JUVENILE DIVISION
DATE JOURNALIZED: 7-22-21
ABELE, J.

{¶1} This is a consolidated appeal from Pike County Common Pleas Court, Juvenile Division, judgments that granted Pike County Children Services Board, appellee herein, permanent custody of three minor children.

{¶2} S.S., the children's biological mother and appellant herein, raises the following assignment of error for review:

"THE TRIAL COURT'S AWARD OF PERMANENT CUSTODY TO THE PIKE COUNTY CHILDREN SERVICES WAS AGAINST THE MANIFEST WEIGHT AND SUFFICIENCY OF THE EVIDENCE."

PIKE, 20CA908, 909 & 910

{¶3} Before we may consider the merits of appellant's assignment's of error, we first must consider whether we have jurisdiction to review the trial court's decision. *Whitaker-Merrell v. Geupel Co.*, 29 Ohio St.2d 184, 186, 280 N.E.2d 922 (1972) (explaining that appellate court must sua sponte consider jurisdiction); *State v. Kitchen*, 4th Dist. Ross No. 18CA3640, 2018-Ohio-5244, 2018 WL 6819501, ¶ 21 (addressing, sua sponte, jurisdiction to hear appeal).

{¶4} App.R. 4(A) generally requires a party to file a notice of appeal within 30 days of the entry of the judgment or order appealed. See *In re H.F.*, 120 Ohio St.3d 499, 2008-Ohio-6810, 900 N.E.2d 607, ¶ 10. An appeal of an adjudication order of abuse, dependency, or neglect, and the subsequent dispositional order pursuant to R.C. 2151.353(A)(2), must be filed within 30 days of the judgment. *Id.* at syllabus. "[F]ailure to file a timely notice of appeal under App.R 4(A) is a jurisdictional defect." *Id.* at ¶ 17. Thus, "[i]f a party fails to file a notice of appeal within thirty days as App.R. 4(A) requires, we do not have jurisdiction to entertain the appeal.'" *Chase Home Finance, L.L.C. v. Gersten*, 4th Dist. Ross No. 12CA3314, 2013-Ohio-252, 2013 WL 360013, ¶ 11, quoting *Hughes v. A & A Auto Sales, Inc.*, 4th Dist. Lawrence No. 08CA35, 2009-Ohio-2278, 2009 WL 1362052, ¶ 7.

PIKE, 20CA908, 909 & 910

{¶5} In the case sub judice, on November 13, 2020 the trial court entered final judgments that granted appellee permanent custody of appellant's three children. On December 15, 2020, appellant filed a notice of appeal with the clerk of the trial court. However, the thirtieth day from the date of the final judgment fell on December 13, 2020, a Sunday, which means that the notice of appeal should have been filed the next business day, December 14, 2020. Because the notice of appeal was filed with the trial court clerk on December 15, 2020, appellant's notice of appeal falls outside of the App.R. 4(A) 30-day time frame.

{¶6} Consequently, based upon the foregoing reasons, this court lacks jurisdiction to consider this appeal. Accordingly, this appeal is hereby dismissed.

APPEAL DISMISSED.

PIKE, 20CA908, 909 & 910

JUDGMENT ENTRY

It is ordered that the appeal be dismissed. Appellees shall recover of appellants costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Pike County Common Pleas Court, Juvenile Division, to carry this judgment into execution.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Hess, J. & Wilkin, J.: Concur in Judgment & Opinion

For the Court

BY: _____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.