

[Cite as *Nickoloff v. Nickoloff*, 2004-Ohio-4327.]

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

JAMES R. NICKOLOFF

Appellee

v.

MICHELLE NICKOLOFF

Appellant

C.A. No. 03CA008415

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 97 DU 053560

DECISION AND JOURNAL ENTRY

Dated: August 18, 2004

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

SLABY, J.

{¶1} Appellant, Michelle J. Nickoloff, n.k.a. Michelle J. Wilson, appeals pro se from the decision of the Lorain County Court of Common Pleas which affirmed a magistrate's decision. Appellant claims multiple errors relating to a

modification of child support and the denial of attorney's fees. For the reasons that follow, we dismiss for lack of jurisdiction.

{¶2} The Ohio Constitution limits an appellate court's jurisdiction to the review of final judgments of lower courts. Section 3(B)(2), Article IV. For a judgment to be final and appealable, the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, must be satisfied. *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, 88. Pursuant to R.C. 2505.02(B)(1), a final order is one that "affects a substantial right in an action that in effect determines the action and prevents a judgment[.]"

{¶3} When a trial court reviews a magistrate's decision, the judge must actually order judgment for a decision to be final. *Harkai v. Scherba Industries, Inc.* (2000), 136 Ohio App.3d 211, 221.

"[A]lthough the judge entirely agrees with the decision of the magistrate, the judge must still separately enter his or her own judgment setting forth the outcome of the dispute and the remedy provided. *** The judge is not permitted to conclude the case by simply referring to the magistrate's decision, even though it may appear more expedient to do so. *** [A] trial court order stating *only* that it is adopting a magistrate's decision does not disclose how the trial court is resolving the issues submitted to it, and, therefore, is not final." (Citations omitted.) *Id.* at 218, 221.

{¶4} In this case, the trial court entered two decisions regarding multiple issues decided by the magistrate below. However, as to child support, the court merely stated that "the Magistrate's determination of the child support was properly determined and supported by the testimony and evidence." The court's decision in no way indicates or orders payment of a modified amount of child

support. The court also did not make any order regarding attorney's fees, but only stated that "[t]he Court cannot say as a matter of law that the Magistrate erred when he did not award fees[.]" The decisions as per child support and attorney's fees are not final orders, and we do not have jurisdiction to hear this case. See *id*; *Kellar v. Kellar*, 9th Dist. No. 03CA0059, 2004-Ohio-2243, at ¶5-6. Accordingly, we dismiss the appeal for lack of jurisdiction.

Appeal dismissed

The Court finds that there were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Lorain, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

Exceptions.

LYNN C. SLABY
FOR THE COURT

CARR, P.J.
BOYLE, J.
CONCUR

APPEARANCES:

MICHELLE J. WILSON, Appellant, 134 Ambleside Way, Amherst, Ohio 44001.

MARK E. STEPHENSON, Attorney at Law, 5750 Cooper Foster Road, Lorain, Ohio 44053-4133, for Appellee.