

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

N.L.

Court of Appeals No. L-10-1307

Appellant

Trial Court No. AD 10202413

v.

A.M.

DECISION AND JUDGMENT

Appellee

Decided: November 29, 2010

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N.L., pro se.

* * * * *

PER CURIAM.

{¶ 1} This matter is before the court sua sponte. N.L. filed a notice of appeal from the September 16, 2010 judgment of the Lucas County Court of Common Pleas, Juvenile Division, which denied N.L.'s request for public access to copies of all guardian ad litem reports filed by Rochelle Abou Arraj in the Lucas County Juvenile Court since January 1, 2008. Based upon our review of the record before the court, we find the court lacks jurisdiction to hear this appeal.

Sup.R. 45 was recently enacted on July 1, 2009, to specifically govern public access to court records. "Court records are presumed open to public access." Sup.R. 45(A). However, Sup.R. 45 also permits a court to restrict public access to court records under certain conditions. Sup.R. 45 states in pertinent part:

{¶ 2} "(E) Restricting public access to a case document

{¶ 3} "(1) Any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion to the court, request that the court restrict public access to the information or, if necessary, the entire document. *Additionally, the court may restrict public access to the information in the case document or, if necessary, the entire document upon its own order.* The court shall give notice of the motion or order to all parties in the case. * * *

{¶ 4} "(2) A court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

{¶ 5} "(a) Whether public policy is served by restricting public access;

{¶ 6} "(b) Whether any state, federal, or common law exempts the document or information from public access;

{¶ 7} "(c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary

business information, public safety, and fairness of the adjudicatory process. * * *

(Emphasis added.) Sup.R. 45(E).

The juvenile court performed an analysis in reviewing appellant's record request and determined that it was necessary under Sup.R. 45(E) for the court to restrict access to the responsive records.

{¶ 8} Sup.R. 47 also provides that a person aggrieved by the decision of a court to restrict access to court records under Sup.R. 45(E) may challenge the decision by pursuing an original action in mandamus. Sup.R. 47(B). See, also, *State ex rel Brady*, 3d Dist. No. 8-08-10, 2008-Ohio-5958, ¶ 6, reversed in part on other grounds, 123 Ohio St.3d 255, 2009-Ohio-4942. (Mandamus is the appropriate remedy to compel compliance with Ohio's Public Records Act.)

{¶ 9} Thus, while appellant may challenge the juvenile court's decision to restrict access to court records, he cannot do so on direct appeal to this court. Instead, appellant must file an original action in mandamus challenging the juvenile court's restriction of access to court records. Sup.R. 47(B).

{¶ 10} Based upon the foregoing, this court is without jurisdiction to hear this appeal. This appeal is dismissed for lack of jurisdiction. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24. It is so ordered.

APPEAL DISMISSED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, P.J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.