

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
CLERMONT COUNTY

MAE R. HANNA, :
 :
 Petitioner-Appellee, : CASE NO. CA2009-04-027
 :
 - vs - : OPINION
 : 8/17/2009
 :
 DAVID C. KESZEI, :
 :
 Respondent-Appellant. :

APPEAL FROM CLERMONT COUNTY COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
Case No. 2009DRH00404

Mark J. Tekulve, 785 Ohio Pike, Cincinnati, Ohio 45245, for petitioner-appellee

Katz Greenberger & Norton, LLP, Scott H. Kravetz, 105 East Fourth Street, Suite 400,
Cincinnati, Ohio 45202, for respondent-appellant

HENDRICKSON, J.

{¶1} Respondent-appellant, David Keszei, appeals a decision of the Clermont County Court of Common Pleas, Domestic Relations Division, issuing an ex parte domestic violence civil protection order in favor of petitioner-appellee, Mae Hanna. For the reasons outlined below, we must dismiss the appeal.

{¶2} David and Mae (respectively, Father and Mother) were divorced in 2002. Pursuant to a shared parenting plan, both parties were designated residential parents and

legal custodians over their two minor children. On March 31, 2009, Mother filed a petition for a domestic violence civil protection order (DVCPO) on the basis that Father intended to take the children to Haifa, Israel during his parenting time over spring break. Mother insisted that this locality was "war-torn and unsafe." The trial court issued an ex parte DVCPO that day which suspended Father's parenting time.

{¶3} On April 6, 2009, the date of the evidentiary hearing on Mother's petition, Father surrendered the children's passports to the guardian ad litem as ordered by the court. The court issued an amended ex parte DVCPO reinstating Father's parenting time and continued the full hearing to April 24, 2009. Father then filed a petition for a writ of prohibition in this court, asking that the trial court be barred from exercising jurisdiction over the matter.¹ On April 24, 2009, the trial court dismissed the ex parte DVCPO without a hearing, at Mother's request. This appeal followed.

{¶4} Before reaching the merits of Father's assignments of error, we must first determine whether this appeal is properly before us. Appellate courts have jurisdiction to review the final orders or judgments of inferior courts within their districts. Section 3(B)(2), Article IV, Ohio Constitution; R.C. 2501.02. The statutory scheme governing DVCPO's explicitly excludes ex parte orders from those that are final and appealable. *Palo v. Palo*, Ashtabula App. Nos. 2003-A-0049, 2003-A-0058, 2004-Ohio-5638, ¶14. R.C. 3113.31(D)(1) plainly refers to an ex parte DVCPO as a temporary order. In addition to the interim nature of such an order, R.C. 3113.31(G) provides, in pertinent part:

{¶5} "An order issued under this section, *other than an ex parte order*, that grants a protection order or approves a consent agreement, that refuses to grant a protection order or approve a consent agreement that modifies or terminates a protection order or consent agreement, or that refuses to modify or terminate a protection order or consent agreement, is

a final, appealable order." (Emphasis added.)

{¶6} In the present matter, appellant's notice of appeal was predicated upon the ex parte orders issued by the trial court on March 31, 2009 and April 6, 2009, respectively. However, the proceedings never advanced past the temporary protection order stage because Mother instituted the dismissal of the ex parte orders prior to the full hearing. Had the matter proceeded to a full hearing and a final DVCPO been entered thereafter, that order would have been final and appealable pursuant to R.C. 3113.31(G). See, e.g., *Wardeh v. Altabchi*, 158 Ohio App.3d 325, 2004-Ohio-4423, ¶5.

{¶7} Although we have serious doubts regarding whether a parent's expressed intention to vacation with his children in Israel is sufficient to constitute "domestic violence" within the meaning of R.C. 3113.31(A)(1), based upon the foregoing analysis we are constrained to dismiss Father's appeal for lack of a final, appealable order.

{¶8} Appeal dismissed.

BRESSLER, P.J., and RINGLAND, J., concur.

1. This court dismissed Father's petition for a writ of prohibition by an entry dated July 27, 2009.

[Cite as *Hanna v. Keszei*, 2009-Ohio-4136.]