

Cite as 2019 Ark. App. 229  
**ARKANSAS COURT OF APPEALS**

DIVISION I  
No. CV-18-944

ADDAM MAXWELL

APPELLANT

V.

LORI MAXWELL

APPELLEE

**Opinion Delivered** April 17, 2019

APPEAL FROM THE BENTON  
COUNTY CIRCUIT COURT  
[NO. 04DR-16-720]

HONORABLE XOLLIE DUNCAN,  
JUDGE

DISMISSED WITHOUT PREJUDICE

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**LARRY D. VAUGHT, Judge**

The appellant, Addam Maxwell, appeals the Benton County Circuit Court's order denying his motion to modify custody and child support. We dismiss his appeal without prejudice for lack of a final order.

The parties were divorced pursuant to a divorce decree entered on January 25, 2017. Pursuant to the agreement of the parties, the court granted Addam and Lori joint custody of their two minor children, N.M. and M.M. The current appeal arises from a petition for modification of custody and child support that Addam filed on January 4, 2018, and an amended petition for modification of custody and child support and for contempt, which he filed on March 29, 2018. On April 5, 2018, Lori filed a counterpetition for contempt against Addam.

On August 21, 2018, the court entered an order that states in its opening paragraph that it is in reference to Addam’s petitions to modify custody and child support and for contempt and Lori’s counterpetition for contempt. The text of the order, however, makes no findings as to Lori’s allegations of contempt against Addam. Addam has appealed this order, which denied his petition for modification of custody and child support. His notice of appeal states that he abandons all pending but unresolved claims. Lori has filed no such waiver.

We cannot address the merits of Addam’s arguments because he has appealed a nonfinal order. Whether an order is subject to an appeal is a jurisdictional issue that this court has the duty to raise, even if the parties do not. *Gray v. White River Health Sys., Inc.*, 2016 Ark. 73, at 2–3, 483 S.W.3d 293, 294. Our rules state that an appeal may be taken from a final judgment or decree. Ark. R. App. P.–Civ. 2(a)(1) (2018). Our supreme court has held that “for an order to be final and appealable, it must terminate the action, end the litigation, and conclude the rights to the matter in controversy.” *Beverly Enters.-Ark., Inc. v. Hillier*, 341 Ark. 1, 3, 14 S.W.3d 487, 488 (2000). The purpose of requiring a final order is to avoid piecemeal litigation. *Gray*, 2016 Ark. 73, at 3, 483 S.W.3d at 294. In *Roach v. Roach*, 2019 Ark. App. 34, at 6, \_\_\_ S.W.3d \_\_\_, \_\_\_, we explained,

[B]ecause “[c]ontempt is not merely a collateral issue, like attorney’s fees,” *Anderson-Tully Co. v. Vaden, et al.*, 2018 Ark. App. 484, at 4, 562 S.W.3d 249, 251, a circuit court’s order is not final and appealable when a contempt issue remains pending. *Id.* The circuit court did not rule on the petition for contempt that Karen filed shortly before the second phase of the trial in April 2015, and Karen did not abandon any pending claim in her notice of cross-appeal under Rule 3(e)(vi) of the Arkansas Rules of Appellate Procedure-Civil. Therefore, because Karen’s contempt petition remains pending . . . we dismiss the appeal and cross-appeal without prejudice.

2019 Ark. App. 34, at 6, \_\_\_ S.W.3d at \_\_\_.

Here, as in *Roach*, Lori's contempt petition has never been ruled on, and she has not abandoned all pending but unresolved claims. Therefore, we lack jurisdiction to address Addam's challenges to the court's order, which is not final. We dismiss the appeal and urge the parties to ensure, prior to any future appeal, that these issues—and any others that may remain pending—are resolved by written order.

Dismissed without prejudice.

ABRAMSON and HARRISON, JJ., agree.

*Pinnacle Law Group*, by: *Matthew A. Kezbhaya*, for appellant.

One brief only.