

Commonwealth of Kentucky
Court of Appeals

NO. 2016-CA-001582-ME

PATTE READ LAMPKINS
(N/K/A/ CORTESANO)

APPELLANT

v. APPEAL FROM CALLOWAY CIRCUIT COURT
HONORABLE ROBERT DAN MATTINGLY, JR., JUDGE
ACTION NO. 15-CI-00237

CHRISTOPHER LAMPKINS

APPELLEE

OPINION
DISMISSING

** ** * ** * **

BEFORE: COMBS, D. LAMBERT AND NICKELL, JUDGES.

LAMBERT, D. JUDGE: Patte Cortesano appeals from the findings of fact, conclusions of law and judgment entered by the Calloway Family Court on September 23, 2016. The final paragraph of the family court's judgment provided the following:

In the event Patte elects to change her primary residence to Texas, she is to notify the court within one (1) week of

the move, at which time the Court will address modifying timesharing and child support. For so long as Patte's residence remains in Western Kentucky with [her son], she shall remain [his] primary residential parent under the terms and conditions set forth in this Court's March 2016 order.

The conditional language of this paragraph reflected the overall tenor of the judgment—namely, that the family court will only consider the timesharing issue if Patte moves to Texas. The family court also did not designate the judgment as either final or appealable.

Our law is well-defined when it comes to appellate jurisdiction. An order that does not adjudicate all of the rights of all the parties is an interlocutory order. *See McCreary County Bd. of Ed. v. Stephens*, 454 S.W.2d 687, 688 (Ky. 1968). Appeals from interlocutory orders “will be dismissed, even though the appellee does not move to dismiss[,]” because appellate courts do not have jurisdiction to decide such appeals. *See Vaught v. Vaught*, 178 S.W.2d 590, 591 (1944).

Here, because the family court expressly reserved judgment on the issue of timesharing until Patte actually moved to Texas and provided notice of that move within one week of its occurrence, it did not enter a final order regarding timesharing. The order merely contemplated a theoretical situation; it did not conclusively resolve what the timesharing arrangement will be if the parties eventually live nine hours apart. As this Court does not have jurisdiction to consider the appeal, it is hereby dismissed.

ALL CONCUR

BRIEF FOR APPELLANT:

Bard Kevin Brian
Paducah, Kentucky

BRIEF FOR APPELLEE:

Whitney C. Flota
Murray, Kentucky