

NOT DESIGNATED FOR PUBLICATION

JEW
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J

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2019 CJ 0181

STATE OF LOUISIANA
IN THE INTEREST OF L.L.

JUDGMENT RENDERED: MAY 31 2019

Appealed from the
City Court of Slidell
In and for the Parish of St. Tammany • State of Louisiana
Docket Number 2014 JS 4084

The Honorable James “Jim” Lamz, Judge Presiding

Shandy Arguelles
Slidell, Louisiana

ATTORNEY FOR APPELLANT
PLAINTIFF—K.V.

Brian G. Meissner
Covington, Louisiana

ATTORNEY FOR APPELLEES
DEFENDANTS—R.G. and K.G.

BEFORE: WELCH, CHUTZ, AND LANIER, JJ.

WELCH, J.

K.V., the mother of the minor child, L.L.,¹ appeals an order of the juvenile court² declining to exercise jurisdiction over her request to modify a judgment of disposition and to establish custody in her favor. For reasons that follow, we dismiss the appeal and issue this opinion in compliance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B).

The minor child, L.L., was adjudicated a child in need of care on January 15, 2015. During the pendency of the child in need of care proceedings, the child was placed with his paternal grandparents, R.G. and K.G. On October 6, 2015, at a review hearing, the juvenile court granted custody of L.L. to his biological father. In addition, the juvenile court ordered that the case be closed effective January 6, 2016, without further review. A judgment in accordance with the juvenile court's ruling was signed on October 8, 2015.

On August 14, 2018, the mother filed a rule to modify the judgment of disposition and to establish custody in her favor. Therein, she alleged that the father had voluntarily transferred custody of L.L. to the paternal grandparents, who were planning to move with the child to New Jersey, that the father was currently incarcerated, and that she was stable and able to provide L.L. with food, clothing, medical care, and other material needs. In an order signed by the juvenile court on December 13, 2018, the juvenile court noted that there were no allegations of abuse or neglect and that the state was no longer a participant in the matter. The juvenile court then found that the issues raised by the mother's pleading were of a civil custody nature; therefore, the juvenile court declined to exercise jurisdiction pursuant to La. Ch.C. art. 313(A)(1) in order for the parties to proceed in the

¹ The minor child, his parents, and his grandparents are referred to by their initials to preserve their anonymity in this confidential proceeding. See Uniform Rules—Courts of Appeal, Rule 5-2.

² The Slidell City Court exercises juvenile jurisdiction for its territorial jurisdiction pursuant to La. Ch.C. art. 302(4).

appropriate district or family court. From this December 13, 2018 order of the juvenile court, the mother has appealed.

Appellate courts have a duty to examine subject matter jurisdiction *sua sponte*, even when the parties do not raise the issue. **Texas Gas Exploration Corp. v. Lafourche Realty Co., Inc.**, 2011-0520 (La. App. 1st Cir. 11/9/11), 79 So.3d 1054, 1059, writ denied, 2012–0360 (La. 4/9/12), 85 So.3d 698. This Court’s appellate jurisdiction extends to “final judgments,” which are those that determine the merits in whole or in part. See La. C.C.P. art. 1841 and 2083.

A valid judgment must be “precise, definite, and certain.” **Laird v. St. Tammany Parish Safe Harbor**, 2002-0045 (La. App. 1st Cir. 12/20/02), 836 So.2d 364, 365. Moreover, a final appealable judgment must contain decretal language, and it must name the party in favor of whom the ruling is ordered, the party against whom the ruling is ordered, and the relief that is granted or denied. See **Carter v. Williamson Eye Center**, 2001-2016 (La. App. 1st Cir. 11/27/02), 837 So.2d 43, 44. A judgment that does not contain decretal language cannot be considered as a final judgment for the purpose of an immediate appeal, and this court lacks jurisdiction to review such a judgment. See **Johnson v. Mount Pilgrim Baptist Church**, 2005-0337 (La. App. 1st Cir. 3/24/06), 934 So.2d 66, 67.

In this case, the December 13, 2018 order that the mother sought to appeal was merely a determination by the juvenile court that it was not going to exercise jurisdiction over the issues raised by the mother’s pleading because those issues were of a civil custody nature to be resolved in the appropriate district or family court and not by the juvenile court. We find that this order is not a final judgment for the purpose of an appeal because it does not contain appropriate decretal language—it does not clearly or precisely specify what relief was being denied, and it neither dismisses any claims nor the mother’s pleading seeking a modification of the judgment of disposition and to establish custody in her favor.

In the absence of a valid final judgment, this Court lacks jurisdiction to review the matter and we dismiss the appeal from the December 13, 2018 order.³

CONCLUSION

For all of the above and foregoing reasons, the appeal of the December 13, 2018 order is dismissed. All costs of this appeal are assessed to the appellant, K.V.

APPEAL DISMISSED.

³ We recognize that this court has discretion to convert an appeal on a non-appealable judgment to an application for supervisory writs. See **Stelluto v. Stelluto**, 2005-0074 (La. 6/29/05), 914 So.2d 34, 39. Generally, appellate courts have exercised that discretion when the motion for appeal was filed within the thirty-day time period allowed for the filing of an application for supervisory writs under Rule 4–3 of the Uniform Rules, Courts of Appeal, and where reversal of the district court’s decision would terminate the litigation, or where clear error in the district court’s judgment, if not corrected, will create a grave injustice. However, when the jurisdictional defect lies in the non-finality of a judgment (as opposed to an appeal from an interlocutory judgment), an appellate court will generally refrain from the exercise of its supervisory jurisdiction when an adequate remedy exists by appeal, particularly when an adequate remedy by appeal will exist upon the entry of the requisite precise, definite, and certain decretal language necessary for appellate review. This is because in the absence of proper decretal language, the judgment is defective; and this court lacks jurisdiction to review the merits, even if we were to convert the matter to an application for supervisory writs. Accordingly, we decline to exercise our discretion to convert this appeal of a judgment that is not final for lack of decretal language to an application for supervisory writs. See **Boyd Louisiana Racing, Inc. v. Bridges**, 2015-0393 pp.2–4 (La. App. 1st Cir. 12/23/15) (*unpublished*).