

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

CA 18-1008

LINDLEY SCOTT HOLLEMAN

VERSUS

NATALIE LOUISE BARRILLEAUX

**APPEAL FROM THE
SIXTEENTH JUDICIAL DISTRICT COURT
PARISH OF IBERIA, NO. 122476
HONORABLE VINCENT JOSEPH BORNE, DISTRICT JUDGE**

SYLVIA R. COOKS

JUDGE

Court composed of Sylvia R. Cooks, Shannon J. Gremillion and D. Kent Savoie,
Judges.

APPEAL DISMISSED.

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COOKS, Judge.

Upon the lodging of the record in this appeal, this court, on its own motion, issued a rule for the Plaintiff-Appellant, Lindley Scott Holleman, to show cause, by brief only, why the appeal should not be dismissed as premature, citing *Egle v. Egle*, 05-531 (La.App. 3 Cir. 2/8/06), 923 So.2d 780. The Plaintiff filed a brief with this court. For the reasons assigned, we dismiss this appeal.

The trial court signed a judgment in this domestic suit on June 25, 2018, and notice of this judgment was sent by the district court to the parties on July 5, 2018. On July 12, 2018, the Plaintiff timely filed a motion for new trial. Attached to this motion for new trial was a proposed order for the trial judge to sign setting the motion for contradictory hearing. Instead of granting this order, a handwritten notation appears over the document reading, "Denied." The trial judge signed this denial of the rule to show cause order on July 19, 2018, and a certification appears at the bottom of this document indicating that a copy of this ruling was sent to all counsel of record on July 26, 2018.

The Plaintiff filed a motion for devolutive appeal on or about August 1, 2018, and the trial court signed the order granting the appeal on August 3, 2018. As stated above, upon receipt of the record in this appeal, this court issued the subject rule for the Plaintiff to show cause why this appeal is not filed prematurely.

In the Plaintiff's brief, he attempts to distinguish the facts of the instant case from those present in *Egle*, 923 So.2d 780. To the contrary, we find that the pertinent facts of these two cases are identical. As in *Egle*, the trial court in the instant case did not deny the motion for new trial following a contradictory hearing, and the only order issued by the trial court on the matter merely denied the rule setting the motion for hearing. Accordingly, for the reasons expressed in *Egle*, we find that the appeal in this case was filed prematurely because there has been no ruling by the trial court on the motion for new trial in violation of La.Code Civ.P. art. 2087(D). Therefore, we hereby

dismiss this appeal, without prejudice. This matter is remanded for further proceedings in accordance with this court's ruling herein.

APPEAL DISMISSED.

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.
Rule 2-16.3 Uniform Rules, Court of Appeal.