

[Cite as *In re O'Dell*, 2003-Ohio-4667.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 82339

IN RE: DEVLIN O'DELL, ET AL. :
: :
: JOURNAL ENTRY
: :
: AND
: :
: OPINION
: :
:

DATE OF ANNOUNCEMENT
OF DECISION: SEPTEMBER 4, 2003

CHARACTER OF PROCEEDING: Civil Appeal from
Juvenile Court,
Case No. 99105331.

JUDGMENT: DISMISSED.

DATE OF JOURNALIZATION:

APPEARANCES:

For Mother-Appellant: Kenneth J. Fisher
[Laura Zannoni] 1414 Terminal Tower
50 Public Square
Cleveland, OH 44113

For Father-Appellee: Scott L. Scrivens
[Fred O'Dell] Falk & Scrivens
2628 Detroit Avenue
Cleveland, OH 44113

TIMOTHY E. McMONAGLE, J.:

{¶1} Mother-appellant, Laura Zannoni, appeals the order of the Cuyahoga County Common Pleas Court, Juvenile Division, that overruled her objections to a magistrate's decision and adopted that decision. Succinctly, the magistrate recommended that father-appellee, Fred O'Dell, be awarded visitation with the parties' minor children. We are unable to reach the merits of this appeal, however, because the record does not indicate that appellant filed her notice of appeal in accordance with the Rules of Appellate Procedure.

{¶2} App.R. 3(A) provides that "[a]n appeal of right shall be taken by filing a notice of appeal with the clerk of the *trial* court within the time allowed by Rule 4." (Emphasis added.) App.R. 4(A) provides that a "party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed or, in a civil case, service of the notice of judgment and its entry if service is not made on the party within the three day period in Rule 58(B) of the Ohio Rules of Civil Procedure."

{¶3} In this case, appellant filed her notice of appeal in this court rather than the trial court, although within the time required by App.R. 4(A).¹ App.R. 4(A), however, is dependent upon compliance with App.R. 3, which requires that the notice of appeal

¹The notice of appeal bears only the file-stamp of the Court of Appeals. It bears no file-stamp of the juvenile court nor does the record from that court contain or otherwise reference any notice of appeal.

be filed in the *trial*, not the appellate, court in order to be considered timely filed. See *Flaksman v. State of Ohio* (May 21, 1981), 10th Dist. No. 81AP-99, 1981 Ohio App. Lexis 10671. Without a timely appeal, we have no jurisdiction to review this case.

Appeal dismissed.

TIMOTHY E. McMONAGLE
JUDGE

PATRICIA A. BLACKMON, P.J., AND

DIANE KARPINSKI, J., CONCUR

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).