

[Cite as *In re P.B.*, 2010-Ohio-2899.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94362

IN RE: P.B.

**JUDGMENT:
DISMISSED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Juvenile Division
Case No. CU 08135079

BEFORE: Dyke, J., Rocco, P.J., and McMonagle, J.

RELEASED: June 24, 2010

JOURNALIZED:

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) 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(C) unless a motion for reconsideration with supporting brief per App.R. 26(A), or a motion for consideration en banc with supporting brief per Loc.App.R. 25.1(B)(2), is filed within ten 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(C). See, also, S.Ct. Prac.R. 2.2(A)(1).

ANN DYKE, J.:

In these pro se proceedings, grandmother Latefah Shampine (“appellant”) appeals from the order of the juvenile court that dismissed her application to determine custody of her grandson. Because the trial court dismissed appellant’s application without prejudice, we are without jurisdiction over this matter and it is hereby dismissed.

On July 3, 2008, appellant filed an application to determine the custody of her four year-old grandson. On the section of the application marked “type of proceeding,” appellant listed “visitation.” Thereafter, on November 13, 2009, the trial court issued an entry that provided in pertinent part as follows:

“It is ordered that the Application to Determine Custody filed by Latefah Shampine, is dismissed without prejudice.” Appellant now appeals, and reiterates that she is seeking visitation rights with her grandson.

A trial court’s dismissal of an action without prejudice is an adjudication that was otherwise than on the merits. *Zimmie v. Zimmie* (1984), 11 Ohio St.3d 94, 464 N.E.2d 142. In general, a dismissal without prejudice leaves the parties in the same position as if plaintiffs had never commenced the action. *Cent. Mut. Ins. Co. v. Bradford-White Co.* (1987), 35 Ohio App.3d 26, 519 N.E.2d 422. Such dismissals are not entries “of judgment adjudicating all the claims and the rights and liabilities of all the parties[.]” within the meaning of Civ.R. 54(B), so they are not final appealable orders within the meaning of R.C. 2505.02. *Id.*

In this matter, the trial court’s dismissal without prejudice of the grandmother’s application to determine custody did not determine the action.

Moreover, the dismissal of the application to determine custody does not prevent the grandmother from filing a petition for visitation, which appears to be her objective. *In re Newsome*, Ashtabula App. No. 2007-A-0030, 2008-Ohio-2132 .

We are therefore without jurisdiction over this appeal and it is hereby dismissed.

It is ordered that appellees recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

ANN DYKE, JUDGE

**KENNETH A. ROCCO, P.J., and
CHRISTINE T. MCMONAGLE, J., CONCUR**