

THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO

CHRISTOPHER P. HITCHCOCK, TREASURER OF GEAUGA COUNTY, OHIO,	:	MEMORANDUM OPINION
	:	
Plaintiff-Appellee,	:	CASE NO. 2010-G-2950
- VS -	:	
ARTHUR E. SEGEDY, JR., et al.,	:	
Defendants,	:	
ALLEN E. SEGEDY,	:	
Defendant-Appellant,	:	
CHRISTOPHER P. HITCHCOCK, TREASURER OF GEAUGA COUNTY, et al.,	:	
Third Party Defendants- Appellees.	:	

Civil Appeal from the Court of Common Pleas, Case No. 09 F 000356.

Judgment: Appeal dismissed.

David P. Joyce, Geauga County Prosecutor, Courthouse Annex, 231 Main Street, Chardon, OH 44024 (For Plaintiff-Appellee and Third Party Defendants-Appellees, Frank J. Gliha, Denise M. Kaminski, Tracy A. Jemison, Mary E. Samide, Bill Young, and David P. Joyce).

Judge David L. Fuhry, pro se, Geauga County Courthouse, 100 Short Court Street, Chardon, OH 44024 (Third Party Defendant-Appellee).

Arthur Segedy Jr. Trust, pro se, 2305 East Aurora Road, Unit A-1, Twinsburg, OH 44087 (Third Party Defendant-Appellee).

Joseph H. Weiss, Jr., Law Office of Joseph H. Weiss, Jr., May Valley Building, #6-B, 8228 Mayfield Road, Chesterland, OH 44026 (For Third Party Defendant-Appellee, Joe Weiss, Guardian ad litem).

President Barack Obama, 1600 Pennsylvania Avenue, N.W., Washington, DC, 20500 (Third Party Defendant-Appellee).

Richard Cordray, Attorney General, and *Pearl M. Chin*, Assistant Attorney General, State Office Tower, 16th Floor, 30 East Broad Street, Columbus, OH 43215-3428 (For Third Party Defendant-Appellee, Governor Ted Strickland).

Allen E. Segedy, pro se, 7707 Country Lane, Chagrin Falls, OH 44023 (Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} On February 23, 2010, appellant, Allen E. Segedy, pro se, filed a notice of appeal from a January 26, 2010 entry of the Geauga County Court of Common Pleas.

{¶2} On March 27, 2009, appellee, Christopher P. Hitchcock, Treasurer of Geauga County, Ohio, filed a complaint in foreclosure against several people including Allen Segedy. On May 4, 2009, Allen filed a motion to dismiss, which the trial court denied on May 18, 2009. Subsequently, on May 27, 2009, Allen filed a motion for default judgment. The trial court denied Allen's motion for default judgment on June 17, 2009. Allen appealed that decision to this court. We dismissed the matter for lack of a final appealable order in *Gauga Cty. Treasurer v. Segedy*, 11th Dist. No. 2009-G-2907, 2009-Ohio-3941. On June 19, 2009, Allen filed a motion for summary judgment. The trial court overruled Allen's motion for summary judgment on September 9, 2009. Allen filed an appeal from that decision. This court dismissed that appeal for lack of a final appealable order. *Gauga Cty. Treasurer v. Segedy*, 11th Dist. Nos. 2009-G-2925 and 2009-G-2926, 2009-Ohio-6035.

{¶3} On January 5, 2010, Allen filed another motion for default judgment with the trial court. The trial court overruled that motion on January 26, 2010. The trial court stated that Allen’s third party complaint had been dismissed by the court.

{¶4} Section 3(B)(2), Article IV of the Ohio Constitution limits the jurisdiction of an appellate court to the review of final judgments of lower courts. *Germ v. Fuerst*, 11th Dist. No. 2003-L-116, 2003-Ohio-6241, ¶3. In order for a judgment to be final and appealable, the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, must be satisfied. See *Alden v. Kovar*, 11th Dist. Nos. 2006-T-0050 and 2006-T-0051, 2006-Ohio-3400, at ¶5, citing to *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, 88. Pursuant to R.C. 2505.02(B), there are five categories of a “final order,” and if a trial court’s judgment satisfies any of them, it will be considered a “final order” which can be immediately appealed and reviewed by a court of appeals.

{¶5} Here, the trial court’s order does not fit within any of the categories of R.C. 2505.02. The denial of default judgment by the trial court is analogous to the denial of summary judgment. See *Segedy, supra*, 2009-Ohio-3941, at ¶4. The Supreme Court of Ohio has stated that “[a]n order denying a motion for summary judgment is not a final appealable order.” *State ex rel. Overmeyer v. Walinski* (1966), 8 Ohio St.2d 23. However, the denial of summary judgment is always reviewable on an appeal from a subsequent final judgment. *Sagenich v. Erie Ins. Group*, 11th Dist. No. 2003-T-0144, 2003-Ohio-6767, at ¶3.

{¶6} As we stated in our prior opinion, “[w]hile the trial court’s judgment in this case denied Allen an immediate remedy much like the denial of a summary judgment, it clearly did not determine the action or prevent a judgment.” *Segedy, supra*, 2009-Ohio-3941, at ¶5. The trial court’s determination may prolong the matter, but it does not

decide the case. The denial of a default judgment is simply an interlocutory order. *Id.* See, also, *Kondrat v. Mitrovich* (May 25, 1984), 11th Dist. No. 9-185, 1984 Ohio App. LEXIS 10054; *Rulli v. Rulli*, 7th Dist. No. 01 CA 114, 2002-Ohio-3205, at ¶12; *Haley v. Reisinger*, 9th Dist. No. 24376, 2009-Ohio-447. Therefore, the denial of a default judgment is not a final order, and Allen will have a meaningful and effective remedy by way of an appeal once a final judgment is reached as to all claims and parties when the case is decided and/or dismissed. See *Johnson v. Warren Police Dept.*, 11th Dist. No. 2005-T-0117, 2005-Ohio-6904, at ¶14.

{¶7} Accordingly, this appeal is hereby sua sponte dismissed for lack of a final appealable order.

{¶8} Appeal dismissed.

TIMOTHY P. CANNON, J., concurs.

DIANE V. GRENDELL, J., concurs in judgment only with a Concurring Opinion.

DIANE V. GRENDELL, J., concurs in judgment only with a Concurring Opinion.

{¶9} While I concur that the present appeal should be dismissed sua sponte, I do so for reasons other than those stated by the majority.

{¶10} On March 27, 2009, the Geauga County Treasurer initiated the underlying foreclosure action in the Geauga County Court of Common Pleas.

{¶11} On June 19, 2009, appellant, Allen E. Segedy, filed a pleading captioned Answer of Defendant Allen E. Segedy Counter & Counterclaim of Allen E. Segedy Third

Party Complaint by Defendant Allen E. Segedy, alleging various claims against twelve named defendants, in addition to “Unknown Defendants to be added as found.”

{¶12} On July 16, 2009, Segedy filed a pleading captioned Corrected Answer of Defendant Allen E. Segedy Counter & Counterclaim of Allen E. Segedy Third Party Complaint by Defendant Allen E. Segedy.

{¶13} On September 9, 2009, the trial court issued a Judgment Entry dismissing Segedy’s Third Party Complaint on the grounds that Civ.R. 14(A) was not satisfied. The court noted: “None of the allegations in Defendant Segedy’s Third Party Complaint or his Corrected Third Party Complaint claim that any of the persons named as Third Party Defendants are or may be liable to him for all or part of the Plaintiff’s claim against him.” The court also found “[t]here is no just reason for delay.”

{¶14} The trial court’s September 9, 2009 Judgment Entry constituted a final order, pursuant to R.C. 2505.02. *NBD Mtge. Co. v. Marzocco*, 2nd Dist. No. 18824, 2001-Ohio-1705, 2001 Ohio App. LEXIS 4861, at *17 (“[o]rders dismissing third-party complaints are final orders, but may not be appealed absent a Civ.R. 54(B) certification, if other claims remain pending”).

{¶15} Segedy did not appeal the trial court’s September 9, 2009 Judgment Entry dismissing his Third Party Complaint.

{¶16} On January 5, 2010, Segedy filed a Motion for Default Judgment.

{¶17} On January 26, 2010, the trial court overruled the Motion for Default Judgment as Segedy’s “Third Party Complaint had been dismissed by this Court.”

{¶18} On February 23, 2010, Segedy filed a Notice of Appeal from the January 26, 2010 Judgment Entry, specifically the overruling of his Motion for Default Judgment and the dismissal of his Third Party Complaint.

{¶19} Segedy may not now appeal the dismissal of his Third Party Complaint, as that Judgment is now final and not appealable. Consequently, Segedy's attempt to file a Motion for Default Judgment based on that Complaint must fail because it is no longer pending. The denial of a Default Judgment is interlocutory if based on a pending claim. If no claim is pending, the Motion is essentially a nullity over which no court may exercise jurisdiction.

{¶20} For these reasons, the present appeal must be dismissed.