

IN THE COURT OF APPEALS OF OHIO  
FOURTH APPELLATE DISTRICT  
ROSS COUNTY

|                      |   |                            |
|----------------------|---|----------------------------|
| Donald S. Elking,    | : | Case No. 16CA3550          |
| Plaintiff-Appellee,  | : |                            |
| v.                   | : | <u>DECISION AND</u>        |
| Barbara J. Elking,   | : | <u>JUDGMENT ENTRY</u>      |
| Defendant-Appellant. | : | <b>RELEASED: 3/08/2017</b> |

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APPEARANCES:

Aaron M. McHenry, Chillicothe, Ohio for Appellant.

Deborah Douglas Barrington, Chillicothe, Ohio, for Appellee.

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Tyack, J.

{¶1} Barbara J. Elking is appealing from certain provisions in her decree of divorce. She assigns two errors for our consideration:

I. THE TRIAL COURT FAILED TO IDENTIFY THE PARTIES' DEBT AS MARITAL OR SEPARATE BEFORE DIVIDING IT.

II. THE TRIAL COURT FAILED TO PROPERLY ALLOCATE APPELLEE'S MILITARY PENSION.

{¶2} Barbara Elking and Donald Elking were married in December 2006. Divorce proceedings were initiated in 2014. No children were born of the marriage. Apparently both wanted a divorce. The only points of disagreement involved property division and allocation of debt.

{¶3} The second assignment of error attacks the allocation of Donald Elking's military pension. The divorce decree states:

By agreement of the parties, the parties shall equally divide Plaintiff's military pension and Defendant's Public Employee's [sic] Retirement

System acquired during the marriage. The court will reserve jurisdiction to modify the provision.

{¶4} This agreement, as sanctioned by the trial court judge in the decree of divorce, means that the decree of divorce is not a final appealable order. Civ.R. 75(F). An important issue is not resolved and we, as an appellate court, cannot know when the issue will be resolved.

{¶5} Since there is no final appealable order, we have no jurisdiction to address the merits of the assignments of error. Therefore, this appeal must be and is dismissed.

{¶6} The clerk shall serve a copy of this order on all counsel of record and unrepresented parties at their last known addresses by ordinary mail.

**APPEAL DISMISSED.**

\* Luper Schuster, J. & Brunner, J.: Concur.

**FOR THE COURT**

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George G. Tyack \*  
Judge

\* George G. Tyack, Elizabeth Luper Schuster, and Jennifer L. Brunner, Judges of the Tenth Appellate District, are sitting by assignment of the Supreme Court of Ohio in the Fourth Appellate District.