

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

REGINA POLEONDAKIS

Appellee

v.

ANTONIOS G. POLEONDAKIS

Appellant

C. A. No. 23981

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. 2003 08 3163

DECISION AND JOURNAL ENTRY

Dated: June 4, 2008

SLABY, J.

{¶1} Appellant, Antonios G. Poleondakis, appeals the judgment entered in favor of Appellee, Regina Poleondakis, by the Summit County Court of Common Pleas, Domestic Relations Division. Because this court lacks jurisdiction to consider an untimely appeal. We dismiss.

{¶2} Appellant, Antonios G. Poleondakis (“Husband”) and Appellee, Regina Poleondakis (“Wife”) were married on July 2, 1983, and have one unemancipated child, G.P., born October 1, 1996. Wife filed for divorce on August 26, 2003, and the case was tried to a magistrate for four days, September 6, 2005, February 1, 2006, May 3, 2006, and June 22, 2006. The magistrate issued his decision on January 3, 2007 (“Magistrate’s Decision”), which the trial court adopted by judgment entry on January 4, 2007. On January 17, 2007, Husband filed objections to the Magistrate’s Decision, and supplemented those objections on June 4, 2007, after receipt of the trial transcript. Wife filed a response to Husband’s objections on June 27,

2007. On August 6, 2007, the trial court overruled Husband's objections in part, sustained Husband's objections in part, and issued a modified judgment entry ("Judgment Entry").

{¶3} Husband appealed the Judgment Entry to this Court in a case docketed as Case No. CA-23863. We issued a journal entry requesting that the Husband explain why the appeal should not be dismissed for lack of a final appealable order based on our decision in *Wilson v. Wilson*, 9th Dist. No. 05CA0078, 2006-Ohio-4151. In response, Husband dismissed his appeal.

{¶4} On November 20, 2007, the Supreme Court of Ohio reversed *Wilson* and held that a divorce decree is final regardless of whether the court-ordered QDRO has been issued. *Wilson v. Wilson*, 116 Ohio St.3d 268, 2007-Ohio-6056, at ¶20. On May 5, 2008, we issued our decision in *Miller v. Miller*, 9th Dist. No. 07CA0068-M, 2008-Ohio-2106. Based on our decision in *Miller*, we must dismiss this appeal because Husband did not timely appeal the Judgment Entry. See *Zorn v. Zorn*, 9th Dist. No. 07CA0077-M, 2008-Ohio-2391. Husband dismissed his original appeal and did not appeal the Judgment Entry until November 7, 2007, more than 30 days after it was issued.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

LYNN C. SLABY
FOR THE COURT

WHITMORE, J.
MOORE, P. J.
CONCUR

APPEARANCES:

CHARLES E. GRISI, Attorney at Law, for Appellant.

RANDAL A. LOWRY and KENNETH L. GIBSON, Attorneys at Law, for Appellee.