

[Cite as *In re S.S.*, 2009-Ohio-4515.]

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

IN RE: S. S.

C. A. No. 24565

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE Nos. DL 07-09-3746
 DL 07-12-4965

DECISION AND JOURNAL ENTRY

Dated: September 2, 2009

MOORE, Presiding Judge.

{¶1} Appellant, S.S., appeals from the judgment of the Summit County Court of Common Pleas, Juvenile Division. This Court dismisses the appeal.

I.

{¶2} S.S. was charged with delinquency by reason of committing robbery, aggravated burglary, and theft stemming from an incident that occurred in September of 2007. The case was tried to a magistrate, who found S.S. delinquent. After overruling his objections, the trial court entered disposition.

II.

ASSIGNMENT OF ERROR I

“THE COURT ERRED IN DENYING S.S.’S MOTION TO DISMISS BASED UPON THE STATE’S FAILURE TO PRESERVE EVIDENCE, THEREFORE DENYING HIM DUE PROCESS.”

ASSIGNMENT OF ERROR II

“THE MAGISTRATE’S ORDER/DECISION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE, CREATING A MISCARRIAGE OF JUSTICE WHEN THE MAGISTRATE FOUND S.S. DELINQUENT BY REASON OF ROBBERY, AGGRAVATED BURGLARY, AND THEFT.”

ASSIGNMENT OF ERROR

“THE STATE DID NOT PRESENT SUFFICIENT EVIDENCE REGARDING EACH OFFENSE.”

{¶3} S.S. assigns three errors to the trial court’s actions. This Court cannot consider those errors because the order appealed is not a final, appealable order. The Ohio Constitution limits an appellate court’s jurisdiction to the review of final judgments of lower courts. Section 3(B)(2), Article IV. Accordingly, this Court has jurisdiction to review only final and appealable orders. See *Harkai v. Scherba Industries, Inc.* (2000), 136 Ohio App.3d 211, 219. “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.” (Citation omitted.) *Konstand v. Barberton*, 9th Dist. No. 21651, 2003-Ohio-7187, at ¶4.

{¶4} The Ohio Supreme Court has held that “[i]t is rudimentary that a finding of delinquency by a juvenile court, unaccompanied by any disposition thereof, is not a final appealable order.” *In re Sekulich* (1981), 65 Ohio St.2d 13, 14. This Court has held that an adjudication without an explicit disposition is not a final, appealable order. *In re D.P.*, 9th Dist.No. 24264, 2008-Ohio-5847. See also, *In re Huckleby*, 3d Dist.No. 4-06-40, 2007-Ohio-6149.

{¶5} In this case, the order appealed adjudicates S.S. delinquent by reason of robbery, aggravated burglary, and theft. But the order contains a disposition for only the robbery and aggravated burglary counts. Because the order does not dispose of all of the counts, it does not

constitute a final, appealable order under R.C. 2505.02. Accordingly, this Court must dismiss this appeal.

III.

{¶6} S.S.'s assignments of error are not addressed. This Court lacks jurisdiction over the appeal. The appeal, therefore, is dismissed.

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.

CARLA MOORE
FOR THE COURT

WHITMORE, J.
DICKINSON, J.
CONCUR

APPEARANCES:

MARTHA HOM, Attorney at Law, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and HEAVEN R. DIMARTINO, Assistant Prosecuting Attorney, for Appellee.