

FILED

07/26/2023

Clerk of the  
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE  
July 24, 2023 Session

**BENJAMIN MCCURRY v. AGNESS MCCURRY**

**Appeal from the Circuit Court for Washington County  
No. 38147 Thomas J. Wright, Senior Judge**

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**No. E2023-00827-COA-R3-CV**

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Because the order appealed from does not constitute a final appealable judgment, this Court lacks jurisdiction to consider this appeal.

**Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed**

THOMAS R. FRIERSON, II, J.; D. MICHAEL SWINEY, C.J.; and KRISTI M. DAVIS, J.

Agness Mccurry, Johnson City, Tennessee, Pro Se Appellant.

Sandy Phillips, Johnson City, Tennessee, for the appellee, Benjamin Mccurry.

**MEMORANDUM OPINION<sup>1</sup>**

The *pro se* appellant, Agness Mccurry (“Appellant”), filed a notice of appeal with this Court on June 5, 2023, which states that Appellant is appealing the May 16, 2023 order of the Circuit Court for Washington County (“the Trial Court”). Appellant attached an order entered on May 16, 2023, entitled, “Criminal Contempt Charge and Notice,” which provided Appellant notice of pending criminal contempt charges against her, described in detail the contempt charges, directed Appellant to appear at a specific time and place for a

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<sup>1</sup> Rule 10 of the Rules of the Court of Appeals provides:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

trial on the charges, and informed Appellant of her rights with regard to the charges of contempt.

This Court subsequently entered a show cause order, directing Appellant to show cause why this appeal should not be dismissed due to lack of a final judgment. Appellant has filed a response to the show cause order, stating that the Trial Court's order is in compliance with Tennessee Rule of Criminal Procedure 42 and that "[t]he contempt charges are final." She also attached an order that was entered by the trial court rescheduling the trial on the contempt charges to October 30, 2023. The court orders presented by Appellant do not reflect a disposition of the contempt charges. As such, the court order appealed by Appellant does not constitute a final appealable judgment.

"A final judgment is one that resolves all the issues in the case, 'leaving nothing else for the trial court to do.'" *In re Estate of Henderson*, 121 S.W.3d 643, 645 (Tenn. 2003) (quoting *State ex rel. McAllister v. Goode*, 968 S.W.2d 834, 840 (Tenn. Ct. App. 1997)). This Court does not have subject matter jurisdiction to adjudicate an appeal as of right if there is no final judgment. *See Bayberry Assocs. v. Jones*, 783 S.W.2d 553, 559 (Tenn. 1990) ("Unless an appeal from an interlocutory order is provided by the rules or by statute, appellate courts have jurisdiction over final judgments only.").

"Except where otherwise provided, this Court only has subject matter jurisdiction over final orders." *Foster-Henderson v. Memphis Health Ctr., Inc.*, 479 S.W.3d 214, 222 (Tenn. Ct. App. 2015). As the order appealed from does not constitute a final appealable judgment, this Court lacks jurisdiction to consider this appeal. The appeal is hereby dismissed. Costs on appeal are taxed to the appellant, Agness McCurry, for which execution may issue.

**PER CURIAM**