

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE  
May 3, 2023

FILED  
05/04/2023  
Clerk of the  
Appellate Courts

**STEPHEN CHARLES JOHNSON v. ELIZABETH KAY JOHNSON**

**Appeal from the Chancery Court for Knox County**  
**No. 197061-2      Richard B. Armstrong, Jr., Chancellor**

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**No. E2022-01635-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**

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

Christopher Scott Taylor, Knoxville, Tennessee, for the appellant, Stephen Charles Johnson.

David Lawrence Valone, Knoxville, Tennessee, for the appellee, Elizabeth Kay Johnson.

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

Pursuant to the requirements of Rule 13(b) of the Tennessee Rules of Appellate Procedure, the Court directed the appellant to show cause why this appeal should not be dismissed for lack of subject matter jurisdiction after it became clear that there was no final judgment from which an appeal as of right would lie. “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*,

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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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

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.”). Appellant responded to our show cause order, and agreed that a final judgment has not been entered.

The order appealed from does not appear to be a final appealable judgment as the Trial Court in its October 27, 2022 order, which is the order appealed, adopts “the Proposed Findings of Facts and Conclusions of Law submitted by the Defendant as the final order of [the Trial Court]” without making any other ruling whatsoever. The “Proposed Findings of Facts and Conclusions of Law submitted by the Defendant,” leaves outstanding a request for attorney’s fees. *See* Tenn. R. App. P. 3(a); *see e.g., E. Solutions for Buildings, LLC v. Knestrick Contractor, Inc.* No. M2017-00732-COA-R3-CV, 2018 WL 1831116, at \*4 (Tenn. Ct. App. April 17, 2018) (finding that order directing parties to re-submit requests for attorney’s fees after appeal was “improvidently certified as final,” and holding that because trial court did not dispose fully and finally of claim for attorney’s fees, this Court lacked jurisdiction); *Grand Valley Lakes Property Owners’ Assoc., Inc. v. Gunn*, No. W2008-01116-COA-R3-CV, 2009 WL 981697, at \*3 (Tenn. Ct. App. April 13, 2009) (stating “the circuit court did not resolve Grand Valley’s request for attorney’s fees . . . . As we have stated, except as otherwise permitted in Rule 9 and in Rule 54.02, an order adjudicating fewer than all the claims of the parties is not a final, appealable order.”). Additionally, Elizabeth Kay Johnson, filed a petition for sanctions on August 2, 2019. The record is devoid of an order addressing this petition.

“Except where otherwise provided, this Court only has subject matter jurisdiction over final orders.” *Foster-Henderson v. Memphis Health Center, 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, Stephen Charles Johnson, for which execution may issue.

**PER CURIAM**