

FILED

09/21/2023

Clerk of the  
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE  
September 15, 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. E2023-00995-COA-R3-CV**

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Because the order from which the appellant has filed an appeal 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.; JOHN W. MCCLARTY, J.; and THOMAS R. FRIERSON, J.

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

Benjamin Mccurry, Johnson City, Tennessee, Pro Se Appellee.

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

The *pro se* appellant, Agness Mccurry (“Appellant”), filed a notice of appeal with this Court on July 8, 2023, which states that Appellant is appealing the June 28, 2023 order of the Circuit Court for Washington County (“the Trial Court”). The Trial Court Clerk has provided a copy of the order being appealed. Although the date on the certificate of service for the order is June 28, 2023, the order was not actually entered and stamped as filed until June 30, 2023. This order entered by the Trial Court continues the trial on Appellant’s criminal contempt charges from July 11, 2023 until a future date on October 30, 2023. No

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 When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

disposition was made regarding the criminal contempt charges in this court order. An order granting a continuance for a future trial is not a final judgment from which a party may file an appeal as of right. On August 25, 2023, this Court entered an order directing Appellant to show cause why this appeal should not be dismissed for lack of subject matter jurisdiction due to lack of a final judgment in the Trial Court proceedings. Appellant has not responded to this Court's show cause order.

“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.”).

The Trial Court's June 30, 2023 order of continuance does not reflect a disposition of the criminal contempt charges and does not constitute a final appealable judgment. Therefore, 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**