

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO**

CHARLES V. LONGO,	:	MEMORANDUM OPINION
Plaintiff-Appellant,	:	
- vs -	:	CASE NO. 2010-G-2998
JOY E. LONGO,	:	
Defendant-Appellee.	:	

Civil Appeal from the Court of Common Pleas, Case No. 01 DC 000861.

Judgment: Appeal dismissed.

Charles V. Longo, pro se, Charles V. Longo Co., L.P.A., 25550 Chagrin Boulevard, #320, Beachwood, OH 44122 (Plaintiff-Appellant).

Gary S. Okin, Dworken & Bernstein Co., L.P.A., 60 South Park Place, Painesville, OH 44077 (For Defendant-Appellee).

Jeffrey T. Orndorff, Jeffrey T. Orndorff Co., L.P.A., 117 South Street, #110, P.O. Box 1137, Chardon, OH 44024-5137 (Guardian ad litem).

CYNTHIA WESTCOTT RICE, J.

{¶1} On November 8, 2010, appellant, Charles V. Longo, filed a notice of appeal from three separate October 15, 2010 entries of the Geauga County Court of Common Pleas.

{¶2} The docket in this matter reveals that on March 18, 2010, appellant filed a motion to remove the guardian ad litem, Jeffrey T. Orndorff. On May 21, 2010, the magistrate issued his decision denying appellant's motion to remove the guardian ad

litem. On May 28, 2010, appellant filed objections to the magistrate's decision. Thereafter, on August 5, 2010, appellant filed a supplemental motion to remove the guardian ad litem. On October 15, 2010, the trial court denied the supplemental motion to remove guardian filed by appellant. In a second entry dated October 15, 2010, the trial court overruled appellant's objections to the May 21, 2010 magistrate's decision. Lastly, in a third entry, also dated October 15, 2010, the trial court denied for mootness, appellant's request for a ruling on his objections to the magistrate's denial of the motion to remove the guardian ad litem.

{¶3} On December 16, 2010, appellee, Joy E. Longo, filed a "Motion to Dismiss Appeal." In her motion, appellee asserts that the orders appealed from are not final and appealable. Appellee argues that the denial of a request to remove a guardian ad litem does not affect a substantial right and is not a final appealable order.

{¶4} Appellant filed a brief in opposition to the motion to dismiss on January 3, 2011, in which he posits that the entries appealed from affect the substantial rights of the parties and their children. Appellant therefore argues that the entries appealed from are final and appealable.

{¶5} We must determine whether the denial of a motion to remove a guardian ad litem is a final appealable order. According to Section 3(B)(2), Article IV of the Ohio Constitution, a judgment of a trial court can be immediately reviewed by an appellate court only if it constitutes a "final order" in the action. *Germ v. Fuerst*, 11th Dist. No. 2003-L-116, 2003-Ohio-6241, ¶3. If a lower court's order is not final, then an appellate court does not have jurisdiction to review the matter and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.* (1989), 44 Ohio St.3d 17, 20.

{¶6} Pursuant to R.C. 2505.02(B), there are seven categories of a “final order,” and if a trial court’s judgment satisfies any of them, it will be considered a “final order” which can be immediately appealed and reviewed by a court of appeals.

{¶7} R.C. 2505.02(B) states that:

{¶8} “An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

{¶9} “(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

{¶10} “(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

{¶11} “(3) An order that vacates or sets aside a judgment or grants a new trial;

{¶12} “(4) An order that grants or denies a provisional remedy and to which both of the following apply:

{¶13} “(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

{¶14} “(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

{¶15} “(5) An order that determines that an action may or may not be maintained as a class action;

{¶16} “(6) An order determining the constitutionality of any changes to the Revised Code ***;

{¶17} “(7) An order in an appropriation proceeding ***.”

{¶18} In the case at hand, the denial of appellant’s motion to remove the guardian ad litem does not fall under any of the categories for being a final order pursuant to R.C. 2505.02(B). The Tenth District Court of Appeals has stated that “[a] motion to remove the guardian ad litem, and the trial court’s decision denying it, are not final appealable orders as they also do not fit within any of the definitions of a final appealable order set forth in R.C. 2505.02(B).” *Davis v. Lewis* (Dec. 12, 2000), 10th Dist. No. 99AP-814, 2000 Ohio App. LEXIS 5747, at *8. See, also, *Lisboa v. Lisboa*, 8th Dist. No. 92636, 2009-Ohio-5565, at ¶7, fn.1.

{¶19} Here, appellant is attempting to appeal the denial of his motion to remove the guardian ad litem even though there are still other issues pending before the trial court. Therefore, the orders appealed from are not final and appealable.

{¶20} Accordingly, appellee’s motion to dismiss is granted, and this appeal is hereby dismissed for lack of a final appealable order.

{¶21} Appeal dismissed.

TIMOTHY P. CANNON, P.J.,

MARY JANE TRAPP, J.,

concur.