

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA11-130

C. P.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered June 1, 2011

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
WESTERN DISTRICT
[NO. JV-2007-29]

HONORABLE BARBARA HALSEY,
JUDGE

DISMISSED

DAVID M. GLOVER, Judge

C.P. was adjudicated delinquent on February 7, 2007. He now appeals from an October 20, 2010 order denying his motion to dismiss and his request for refund of the amounts he had paid toward restitution. We dismiss his appeal because it is not from an appealable order under Rule 2 of the Arkansas Rules of Appellate Procedure—Civil.

The juvenile was adjudicated delinquent based on the trial court's finding that he was guilty of residential burglary, theft of property, theft by receiving, and breaking or entering. The February 7, 2007 order of probation set forth the terms and conditions of his probation, including the requirement that he "pay restitution to the Juvenile Office for aggrieved parties for actual loss or damage caused by the juvenile in the sum of TO BE DETERMINED

WITHIN 90 DAYS not to exceed \$10,000.” His mother, Tammy Keyes, was also named in the order’s caption. By amended order entered on February 22, 2007, another condition, completing his GED, was added. It is undisputed that no restitution hearing was ever held to determine the amount of restitution. It appears from the record that an amount was agreed upon by C.P., his victim, and the prosecutor because C.P. began making some payments.

Several petitions, orders, and hearings (to show cause why C.P. should not be held in contempt for failure to pay) were addressed by the trial court between his 2007 delinquency adjudication and June 11, 2010, when C.P. filed a “motion to dismiss and request to refund amounts paid.” A hearing on the motion to dismiss and request for refund was held on July 14, 2010. The trial court took the matter under advisement, issued a letter opinion, and held a subsequent hearing on October 20, 2010. At the outset of the October 20 hearing, the trial court asked, “[I]s there an active petition for contempt in front of me?” Defense counsel acknowledged that there was not, but stated that the June 11 motion in which she challenged the trial court’s jurisdiction was still pending. The order denying C.P.’s motion to dismiss and request for refund of amounts paid was entered on October 20, 2010. C.P. filed his notice of appeal from the October 20 order on November 8, 2010.

Rule 2 of our Rules of Appellate Procedure—Civil sets forth matters that are appealable. We can find no provision in Rule 2 that covers the October 20, 2010 order, and we raise the issue because it concerns our jurisdiction to hear this appeal. We have long held that the denial of a motion to dismiss is not an appealable order. *See Lenders Title Co. v.*

Cite as 2011 Ark. App. 415

Chandler, 353 Ark. 339, 107 S.W.3d 157 (2003); *Epperson v. Biggs*, 17 Ark. App. 212, 705 S.W.2d 901 (1986).

Appeal dismissed.

GRUBER and HOOFFMAN, JJ., agree.