Cite as 2012 Ark. App. 172

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA11-1078

	Opinion Delivered February 22, 2012
JAMES DAVID CARRUTH APPELLANT	APPEAL FROM THE UNION COUNTY CIRCUIT COURT, [DR-2007-0257-6]
V.	HONORABLE DAVID F. GUTHRIE, JUDGE
MARY ANN CARRUTH APPELLEE	DISMISSED WITHOUT PREJUDICE

DAVID M. GLOVER, Judge

Appellant James David Carruth appeals the trial court's denial of his motion to modify his child support. We are unable to reach the merits of Mr. Carruth's argument, as the order from which he appeals is not a final, appealable order. We must dismiss his appeal.

The parties' divorce hearing was held in August 2009; the trial court issued a letter opinion in October 2009. On November 6, 2009, prior to entry of the decree of divorce, Mr. Carruth filed a motion entitled, "Defendant's Motion for Reconsideration of Alimony Arrearage and for Reconsideration or Modification of Child Support." A decree of divorce was entered on November 24, 2009. No further action was taken until May 4, 2010, when the trial court held a hearing on Mr. Carruth's motion. At that hearing, the parties agreed that the reconsideration portions of Mr. Carruth's motion were moot because they had not been timely ruled upon. However, Mr. Carruth asked the trial court to treat his motion as one to modify his child-support obligation under the divorce decree. There being no

objection to this request, the trial court agreed to recharacterize Mr. Carruth's motion as one to modify the prior decree. After testimony was taken at the May 4 hearing, the trial court stated that it would take the issue of child support under advisement and look at the facts and figures again, as well as the threshold issue of whether there had been a sufficient change in circumstances for a modification. On July 8, 2011, the trial court entered an order denying Mr. Carruth a modification of his child-support obligation and finding him in contempt for voluntarily reducing his child support. Mr. Carruth filed a timely notice of appeal on August 4, 2011.

In the order appealed by Mr. Carruth, the trial court denied his motion to modify his child-support obligation and found him in contempt of court for paying a self-determined, reduced amount of child support following the filing of his motion to modify. The trial court then provided that Mr. Carruth could purge his contempt by making full payment of the arrearage within thirty days of entry of the order, and if it were not paid in that time, Mrs. Carruth would have judgment for the arrearage with the power of execution. The trial court next provided, "Counsel shall calculate the amount due in order to have a sum certain."

Rule 2(a)(1) of the Arkansas Rules of Appellate Procedure–Civil provides that an appeal may be taken from "a final judgment or decree entered by the circuit court." The appellate courts do not reach the merits of an appeal if the order from which the appeal is taken is not final. *Fratesi v. Bond*, 282 Ark. 213, 666 S.W.2d 712 (1984). The existence of a final order is a question of jurisdiction, and the appellate courts have the right and duty to raise that issue in order to avoid piecemeal litigation. *Morgan v. Morgan*, 8 Ark. App. 346, 652

S.W.2d 57 (1983) (citing *Hyatt v. City of Bentonville*, 275 Ark. 210, 628 S.W.2d 326 (1982)). For a judgment to be final, it must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy. *Id.* The amount of a final judgment that a party is required to pay must be stated in a judgment or decree. *Thomas v. McElroy*, 243 Ark. 465, 420 S.W.2d 530 (1967). Here, the trial court left the amount of arrearages to be determined by counsel. This is not a final, appealable order.

Appeal dismissed without prejudice.

VAUGHT, C.J., and GRUBER, J., agree.

Williams & Anderson PLC, by: *Teresa Wineland* and *Bonnie Joan Johnson*, for appellant.

Mary Thompson, for appellee.