

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA09-635

KENDRICK D. HAWKINS

APPELLANT

V.

ETHEL J. HAWKINS

APPELLEE

Opinion Delivered FEBRUARY 3, 2010

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT
[NO. DR-07-365]

HONORABLE DAVID CLARK, JUDGE

DISMISSED

M. MICHAEL KINARD, Judge

Both parties to this appeal are appealing from a decree of divorce entered by the circuit court. Appellant, Kendrick D. Hawkins, argues on direct appeal that the circuit court erred in awarding appellee a portion of his military retirement benefits and that the court erred in dividing the credit-card debt between the parties. Appellee, Ethel J. Hawkins, argues on cross-appeal that the trial court erred in finding that a trailer was a gift to appellant and not marital property. We dismiss the appeal for lack of a final order.

The parties married on May 30, 1998, and separated on April 4, 2007. Appellant served in the military for twenty years, from June 7, 1984, until July 1, 2004. As a result of his military service, appellant receives a military retirement pension. Prior to the parties' separation, a trailer was purchased in appellant's name. Appellant and his father, Jasper Sewell, both testified that Sewell was the one who paid for the trailer. Appellant testified that the

trailer was purchased in his name in order to keep the trailer out of Sewell's pending divorce. Appellee testified that the trailer was purchased with marital funds. At the beginning of the hearing before the circuit court, the parties agreed to equally divide the credit-card debt they incurred prior to their separation on April 4, 2007.

In the decree, entered March 6, 2009, the circuit court awarded appellee a percentage of appellant's military pension. The court also stated that the credit cards listed in an exhibit introduced at the hearing were to be split equally between the parties, with the parties to come to an agreement as to how to pay the debt. In addition, the court found that the trailer was a gift to appellant and not marital property. Appellant filed a timely notice of appeal on March 17, 2009. Appellee filed a timely notice of cross-appeal on April 1, 2009.

Our review of the decree reveals that it is not a final, appealable order. Regarding the credit-card debt of the parties, the decree states as follows: "That the credit cards listed in Exhibit Number 7 (attached hereto) are to be split equally among the parties, so each party shall be responsible for an individual debt. That if the parties cannot come to an agreement as to how to split the credit-card debt equally 50/50, then the Court shall do so." In order to be appealable, an order must be final. *Liberty Life Ins. Co. v. McQueen*, 364 Ark. 367, 219 S.W.3d 172 (2005). To be final and appealable, an order must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy. *Petrus v. Nature Conservancy*, 330 Ark. 722, 957 S.W.2d 688 (1997). The order must be of such a nature as to not only decide the rights of the parties, but to put the court's

directive into execution, ending the litigation or some separable part of it. *Budget Tire & Supply Co. v. First Nat'l Bank*, 51 Ark. App. 188, 912 S.W.2d 938 (1995). The decree, as it pertains to the credit-card debt, leaves it to the parties themselves to divide the debt and specifically states that the parties are to return to the circuit court if they are unable to agree upon how the debt is to be divided. Due to the lack of finality regarding the credit-card debt, we hold that the decree is not a final, appealable order. As such, we dismiss the appeal for lack of a final order.

Dismissed.

HART and HENRY, JJ., agree.