

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA 10-77

ROBERT O. SHAFER, JR.
APPELLANT

V.

ESTATE OF ROBERT O. SHAFER, SR.
APPELLEE

Opinion Delivered June 2, 2010

APPEAL FROM THE WHITE
COUNTY CIRCUIT COURT
[NO. PR-08-105-3]

HONORABLE CRAIG HANNAH,
JUDGE

DISMISSED

COURTNEY HUDSON HENRY, Judge

Appellant Robert Shafer appeals the decision of the White County Circuit Court holding him in contempt for violating a previous order entered by the circuit court. For reversal, he contends that the circuit court erroneously found him in contempt. We must dismiss because the appeal is taken from an order that is not final.

Robert O. Shafer, Sr., died testate on May 26, 2007, leaving as heirs his three children, appellant, Karl Shafer, and Roberta Payne. Although their father's will nominated appellant and Karl as co-executors of the estate, the circuit court appointed Robert Hudgins, an attorney and certified public accountant, to serve as the executor because of family discord. On October 3, 2008, Hudgins filed an inventory of the estate that included, among other things, a 1997 sixteen-foot utility trailer. On February 17, 2009, the circuit court entered an order in which it found that all items listed in the inventory were property of the estate.

Further, the court directed that “[a]ll estate property in the possession or under the control of the decedent’s three children shall be delivered over to Mr. Hudgins, or a third party, within ten (10) days, or in such time frame as Mr. Hudgins instructs.” Also, the court ordered all property of the estate to be sold at public auction.

In the report of sale, Hudgins alleged that appellant had refused his demands to deliver the utility trailer, and he asked that appellant be held in contempt for not abiding by the court’s order. The circuit court heard the contempt motion on June 24, 2009. In an order dated October 23, 2009, the circuit court found appellant in contempt. In terms of sanctions, the order provided:

The court hereby assesses the costs and attorney’s fees against Robert O. Shafer, Jr. relating to this June 24, 2009 hearing. Mr. Biggs [attorney for the estate] should prepare and submit a petition to the court, copied to Mr. Carder [appellant’s attorney], setting out the itemized fees and expenses of the personal representative and the attorney for the estate associated with the June 24, 2009 hearing, and said petition should include the expenses of Roberta Payne for her travel to and from said hearing from her home in Mobile, Alabama.

Appellant filed a timely notice of appeal from this order.

Generally, a finding of contempt is a final, appealable order. *Holifield v. Mullenax Fin. & Tax Advisory Group*, 2009 Ark. App. 280, 307 S.W.3d 608. However, it must be a final contempt order. An order of contempt is not final and appealable where no sanctions have been imposed. See *Taylor v. Taylor*, 26 Ark. App. 31, 758 S.W.2d 222 (1988). An order merely announcing the court’s determination of the rights of the parties, but contemplating further judicial action, is not appealable. Also, the amount of the judgment must be

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computed, as near as may be, in dollars and cents, so as to be enforced by execution or some other appropriate manner. *Allen v. Allen*, 99 Ark. App. 292, 259 S.W.3d 280 (2007).

In the present case, the circuit court has not yet imposed the sanctions for appellant's contempt. Instead, the court has directed the filing of a petition setting forth the costs, fees, and expenses associated with the contempt hearing upon which the court contemplates further judicial action. Consequently, the contempt matter is not yet concluded. Whether a judgment, decree, or order is final is a jurisdictional issue that the appellate court has a duty to raise, even if the parties do not, in order to avoid piecemeal litigation. *Mitchell v. Fells*, 2010 Ark. App. 293. We dismiss the appeal for the lack of a final order.

Dismissed.

ROBBINS and GRUBER, JJ., agree.