

Cite as 2021 Ark. 83
SUPREME COURT OF ARKANSAS
No. CV-20-613

REGINALD DUNAHUE
PETITIONER

V.

AUNDREA CULCLAGER, WARDEN,
ARKANSAS DEPARTMENT OF
CORRECTION; KENNIE BOLDEN,
SECURITY WARDEN; CAPTAIN
KENNETH STARKS; SGT. DARYL
JAMES; AND MARSHALL REED,
DEPUTY DIRECTOR

RESPONDENTS

Opinion Delivered: April 15, 2021

MOTION FOR RULE ON CLERK;¹
PETITION FOR WRIT OF
MANDAMUS
[LINCOLN COUNTY CIRCUIT
COURT, NO. 40CV-20-64]

APPEAL DISMISSED; MOTION AND
PETITION MOOT.

ROBIN F. WYNNE, Associate Justice

Pending before this court is petitioner Reginald Dunahue’s motion for rule on clerk asking that the clerk file his appellate brief and addendum even though the addendum does not comport with the rules of appellate procedure. Also pending is Dunahue’s petition for writ of mandamus requesting this court to compel the circuit clerk to send copies of his complaint and summons to the Lincoln County Sheriff. Dunahue appeals from the denial of his motion for a default judgment that was filed in connection with a civil-rights complaint lodged against the respondents. Because the denial of a motion for default judgment is not

¹The title of the motion in this matter is “Petition for the Chief Justice to the Arkansas Supreme Court to Order Arkansas’s Criminal Justice Coordinator to Accept and File Petitioner’s Appeal Brief and Addendum.” Because the petition asks that the clerk file a noncompliant brief, it is treated as a motion for rule on clerk.

a final judgment, we dismiss the appeal, which renders his motion for rule on clerk and his petition for writ of mandamus moot.

This court will not reach the merits of an appeal if the order being appealed is not final. *Hill v. Dennis*, 2019 Ark. 338. Whether an order is final and subject to appeal is a jurisdictional question that this court will raise sua sponte. *Id.* For an order to be final and appealable, it must terminate the action, end the litigation, and conclude the parties' rights to the matter in controversy. *Id.* Accordingly, without a final order on the merits, this court does not have appellate jurisdiction. *Nooner v. Kelley*, 2019 Ark. 80, 568 S.W.3d 766. The denial of a motion for default judgment is not a final, appealable order. *Assocs. Fin. Servs. Co. of Okla. v. Crawford Cty. Mem'l Hosp. Inc.*, 297 Ark. 14, 759 S.W.2d 210 (1988). In sum, this court does not have jurisdiction to address an order that does not conclude the rights to the matter in controversy. *Hill*, 2019 Ark. 338.

Appeal dismissed; motion and petition moot.

WOOD, J., dissents without opinion.