



In the Missouri Court of Appeals Western District

HANNAH WALDENVILLE,	)	
Respondent,	)	
v.	)	WD84211
	)	
SCOTT WALDENVILLE,	)	FILED: September 7, 2021
Appellant.	)	

APPEAL FROM THE CIRCUIT COURT OF CLAY COUNTY THE HONORABLE KATHRYN E. DAVIS, JUDGE

**BEFORE DIVISION ONE: LISA WHITE HARDWICK, PRESIDING JUDGE, ALOK AHUJA,
AND ANTHONY REX GABBERT, JUDGES**

Scott Waldenville ("Husband") appeals from the circuit court's order for temporary child support issued during his marriage dissolution proceedings. Husband raises eight points on appeal, each challenging the temporary order. Hannah Waldenville ("Wife") contends that we lack jurisdiction to hear the case because the temporary order was not a final, appealable judgment denominated under Rule 74.01. Alternatively, she contends the appeal is moot. For reasons explained herein, we dismiss the appeal.

FACTUAL AND PROCEDURAL HISTORY

In March 2020, Wife filed a petition to dissolve her marriage to Husband. Wife then filed a motion for temporary child support on November 10, 2020. The

circuit court issued an order for temporary child support against Husband on November 19, 2020. The order awarded Wife temporary child support of \$1,226.00 to be paid monthly, along with \$563.00 per month in arrearage until paid in full. The order further ordered Husband to pay Wife \$4,000.00 in attorney's fees.

On May 19, 2021, the circuit court issued its final judgment on the parties' dissolution of marriage. The final judgment on the dissolution of marriage incorporated and continued the terms of the temporary support order, and also added other additional obligations. Husband has since filed an appeal from that judgment in WD84677. Wife subsequently filed a motion to consolidate the appeals, which we denied due to the jurisdictional deficiencies explained in this opinion. The parties have yet to submit briefs or a record on appeal in WD84677. Husband only appeals from the temporary order in this case.

ANALYSIS

Before we can review Husband's eight points on appeal, we must consider whether we have jurisdiction to hear this appeal. "A final judgment is a prerequisite for appellate review, and if the judgment appealed is not final, we lack jurisdiction and must dismiss the appeal." *Boomerang Transp., Inc. v. Miracle Recreation Equip. Co.*, 360 S.W.3d 314, 316 (Mo. App. 2012). Wife argues that Husband is appealing from a temporary order that is not a final, appealable judgment.

After briefing was complete, Wife filed a Rule 4-3.3 letter of disclosure, in which she acknowledged our history of finding temporary support orders appealable as judgments pendente lite. A judgment pendente lite issues from a motion for *temporary* relief in a dissolution of marriage proceeding and is treated as a final, appealable judgment. *Long v. Long*, 469 S.W.3d 10, 12 n.1 (Mo. App. 2015) (“Pendente lite judgments issued pursuant to section 452.315 are final judgments.”); *Dubrovenskiy v. Vakula*, 574 S.W.3d 287, 289-91 (Mo. App. 2019) (allowing an appeal from a judgment pendente lite granting temporary spousal maintenance during a dissolution of marriage proceeding). Our courts have long treated motions pendente lite, such as those for temporary child support, as independent causes of action. *Tate v. Tate*, 920 S.W.2d 98, 106 (Mo. App. 1996). Thus, an order resolving a pendente lite motion is the final, appealable judgment in that new and independent claim. *Id.*

This practice is consistent with the decision in *Archdekin v Archdekin*, 562 S.W.3d 298, 305 (Mo. banc 2018), upon which Wife relied prior to filing her Rule 4-3.3 disclosure letter. The circuit court in *Archdekin* attempted to issue an interlocutory judgment conclusively resolving child and spousal support on a non-temporary basis prior to issuing a final judgment on the dissolution of marriage. *Id.* at 302-03. Our Supreme Court rejected that practice on the grounds that a dissolution of marriage proceeding raises a single claim, and “the division of property, child custody, and support” are merely issues to that claim. *Id.* at 305. Therefore, the Court found that issues like *non-temporary* support may not be

resolved in a piecemeal manner outside the final judgment on the dissolution of marriage. Because there was no pendente lite motion to resolve in *Archdekin*, the issues of child and spousal support remained just that—issues—which did not meet Rule 74.01’s requirement that at least one *claim* be adjudicated for the judgment to be final. *Id.* at 304-05. Pendente lite motions, however, essentially create a new claim for, in this case, temporary support, which, when resolved, may satisfy Rule 74.01 as disposing of at least a single claim. *See Noll v. Noll*, 286 S.W.2d 58, 64-65 (Mo. App. 1956). Because the decision in *Archdekin* did not relate to pendente lite *claims*, it is not dispositive here.

Nevertheless, we lack jurisdiction because judgments and final judgments must be denominated as such under Rule 74.01 to be appealable, which did not occur in this case. *Meadowfresh Sols. USA, LLC v. Maple Grove Farms, LLC*, 578 S.W.3d 758, 762 (Mo. banc 2019). Therefore, the order for temporary child support before us is neither a judgment nor a final judgment from which an appeal may be taken.

Husband contends that denomination is not required for appealability under the Supreme Court’s decision in *Meadowfresh*. In *Meadowfresh*, the Court determined that interlocutory orders that are specifically made appealable by statute do not need to be denominated a judgment under Rule 74.01. *Id.* In this case, however, temporary child support orders are not specifically made appealable by statute like the orders in *Meadowfresh*. *See id.* Therefore, the facts of *Meadowfresh* do not apply either. As arising from neither a statutorily

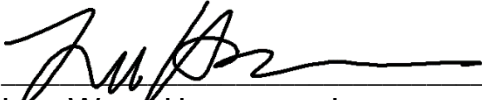
appealable order or a properly denominated final judgment, we do not have jurisdiction to hear this appeal, and, accordingly, we must dismiss the appeal.

Even if, *arguendo*, we did have jurisdiction, we would still have to dismiss. Since Husband filed this appeal, the circuit court held a trial and issued a final, appealable judgment on the parties' dissolution of marriage, which includes an order of child support that supersedes the temporary support order at issue in each of Husband's points on appeal. *See Laubinger v. Laubinger*, 5 S.W.3d 166, 175 (Mo. App. 1999). Because the order upon which this appeal was based is no longer in effect, any decision we make on appeal would be moot and have no practical effect on any existing controversy. *See id.*; *State ex rel. KCP & L Greater Missouri Operations Co. v. Missouri Pub. Serv. Comm'n*, 408 S.W.3d 153, 160 (Mo. App. 2013); *Lucas v. Lucas*, 307 S.W.3d 712, 714 (Mo. App. 2010) (finding temporary orders superseded by the final dissolution of marriage judgment rendered appeal of those orders moot). Nevertheless, the final judgment on the dissolution of marriage incorporated the terms of the temporary support order, and, because the parties have not yet submitted briefs in WD84677, Husband is free to contest the validity of those terms as part of that separate appeal.

Finally, Wife requests that we award costs for a frivolous appeal under Rule 84.19. After reviewing the record, applicable law, and the merits of each parties' arguments, we deny the motion.

CONCLUSION

The cause is dismissed for lack of jurisdiction. Wife's Rule 84.19 motion is denied.



LISA WHITE HARDWICK, JUDGE

ALL CONCUR.