

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

ANDREW S. CWIK,	:	APPEAL NO. C-081052
	:	TRIAL NO. DV0800826
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DAVID E. CORRY,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

In three assignments of error, Andrew Cwik appeals the judgment of the Hamilton County domestic relations court denying his request for a civil protection order (“CPO”). Because we hold that the trial court lacked subject-matter jurisdiction, we do not address the assigned error and instead vacate the trial court’s judgment.

Qwik had sought a CPO on behalf of his children against their mother’s boyfriend, David Corry. Following a hearing, the trial court found that the children’s mother and Corry did not cohabit. The children and Corry, therefore, were not household or family members as defined by statute,<sup>2</sup> and so the domestic

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<sup>1</sup> See S.Ct.Rep.Op.3(A), App.R.11.1(E), and Loc.R. 12.

<sup>2</sup> R.C. 3113.31(A)(3) and (A)(4).

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relations court lacked subject-matter jurisdiction.<sup>3</sup> Without subject-matter jurisdiction, the court had no authority to hear or to decide this case.<sup>4</sup> It nevertheless issued a decision denying Cwik's motion. This judgment had no legal significance.<sup>5</sup> We hereby vacate it.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., PAINTER and SUNDERMANN, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on July 1, 2009  
per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>3</sup> See R.C. 3113.31(B) and (C).

<sup>4</sup> See Civ.R. 12(H)(3).

<sup>5</sup> *Patton v. Diemer* (1988), 35 Ohio St.3d 68, 518 N.E.2d 941, paragraph three of the syllabus.