

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

KATHLEEN ROTHSCHILD,	:	APPEAL NO. C-090165
	:	TRIAL NO. DV-0701053
Petitioner-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
GARTH ROTHSCHILD,	:	
	:	
Respondent-Appellee.	:	

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

In October 2007, the Hamilton County domestic relations court issued a civil protection order prohibiting respondent-appellee Garth Rothschild from having any contact with his ex-wife, petitioner-appellant Kathleen Rothschild, and their children. The order provided that it would remain in effect until September 27, 2012. Garth did not appeal the order.

Nearly a year later, Garth filed a Civ.R. 60(B) motion for relief from the protection order. Following a hearing, a magistrate of the domestic relations court overruled the motion, and the trial court adopted the magistrate’s decision. Garth then filed timely objections to the magistrate’s decision.

Following a hearing on Garth’s objections, the trial court issued an order that stated, “The objections filed by defendant (Garth Rothschild) were heard by [the court]. This case is hereby referred back to Magistrate Meyers for a full hearing.” Kathleen now appeals that order.

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

In a single assignment of error, Kathleen argues that the trial court erred by granting Garth's Civ.R. 60(B) motion. But before we address the merits of her argument, we must determine if we have jurisdiction to entertain her appeal.

This court's jurisdiction is limited to the review of final orders.² We must, therefore, ascertain whether the trial court's order in this case was a final, appealable order.

"Where a matter is referred to a magistrate, the magistrate and the trial court must conduct the proceedings in conformity with the powers and procedures conferred by Civ.R. 53."³ Under Civ.R. 53, a magistrate's decision in a case remains interlocutory until the trial court reviews the decision, adopts, rejects, or modifies the decision, "and enters a judgment that determines all the claims for relief in the action or determines that there is not just reason for delay."⁴

If a party files timely objections to a magistrate's decision, the trial court is required to rule on the objections.⁵ In so ruling, the court must independently review the objections "to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law."⁶

If the court enters a judgment during the 14-day period permitted for the filing of objections, the timely filing of objections operates as an automatic stay of the execution of the judgment "until the court disposes of the objections and vacates, modifies, or adheres to the judgment previously entered."⁷ Therefore, when a trial court enters judgment on a magistrate's decision, but fails to explicitly rule on a

² See Section 3(B)(2), Article IV, Ohio Constitution.

³ *Yantek v. Coach Builders Limited, Inc.*, 1st Dist. No. C-060601, 2007-Ohio-5126.

⁴ *Id.*

⁵ Civ.R. 53(D)(4)(d).

⁶ *Id.*

⁷ Civ.R. 53(D)(4)(e)(i).

party's objections, that judgment does not constitute a final, appealable order because it does not fully determine the action.⁸

In this case, Kathleen argues that the trial court sustained Garth's objections to the magistrate's denial of his motion for relief from the 2007 civil protection order and then granted Garth's motion. But that is not the case. The court did not grant the motion for relief from the protection order. In fact, the court specifically indicated to the parties that the protection order remained in effect. Moreover, the court failed to explicitly sustain or overrule Garth's objections. Rather, by referring the case for further proceedings before the magistrate, the court indicated that it was deferring any ruling on the objections.

Therefore, because the trial court's order did not explicitly rule on the objections so as to fully determine the action, it was not a final order. We are without jurisdiction to entertain the appeal, and we accordingly dismiss 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.

HENDON, P.J., DINKELACKER and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 25, 2009

per order of the Court _____
Presiding Judge

⁸ See *In re Strickler*, 9th Dist. Nos. 08CA009375 and 08CA009393, 2008-Ohio-5813; *Ludwick v. Ludwick*, 12th Dist. No. CA2002-08-017, 2003-Ohio-2925; *Drummond v. Drummond*, 10th Dist. No. 02AP-700, 2003-Ohio-587.