

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

JOCOLE BROWN,	:	APPEAL NOS. C-190232
		C-190233
Plaintiff-Appellee,	:	C-190358
		TRIAL NOS. F11-803x
vs.	:	F11-804x
BRANDON BOWIE,	:	
		<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

MAYA AUSTELL,	:
Plaintiff-Appellee,	:
vs.	:
BRANDON BOWIE,	:
Defendant-Appellant.	:

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3:1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

This case involves three separate appeals dealing with two distinct issues. The appeals numbered C-190232 and C-190233 are from the juvenile court cases numbered F11-803x and F11-804x respectively. Those appeals address the issue of whether the trial court properly found defendant-appellant Brandon Bowie in contempt of court for keeping custody of his children longer than he was permitted by the trial court's visitation orders. F11-803x involves two children that Bowie has with defendant-appellee Jocole Brown. F11-804x involves one child that Bowie has with defendant-appellee Maya Autell. Bowie raises four assignments of error in those appeals. The appeal numbered C-190358 is from a subsequent decision in the case numbered F11-803x in which Bowie claims that Brown was improperly determined to be the sole custodian of the couple's two children.

We first address the four assignments of error in the appeals numbered C-190232 and C-190233. On June 20, 2017, the magistrate found Bowie in contempt of court for failing to return his three children timely to Brown and Austell after Christmas Day 2016. On April 12, 2018, the trial court adopted that finding, but continued the matter for the determination of a sanction. On July 20, 2018, the trial court restated its contempt finding and ordered Bowie to pay \$900 to each mother to purge the contempt finding (\$100 for each day the children were not returned). On March 12, 2019, Bowie paid the amount and his contempt was purged. On April 8, 2019, Bowie filed his notices of appeal.

Bowie's first four assignments of error relate to the trial court's finding of contempt. But the record indicates that the contempt has been purged. This court addressed a similar issue in 2012. In that case, this court said:

A civil-contempt sanction is imposed to coerce a party in violation of the court's orders—the contemnor—to comply and to remedy the harm caused to other parties by its disobedience. A civil-contempt sanction must allow the contemnor the opportunity to purge himself of the contempt prior to imposition of any punishment. Thus “[a]ny prison term imposed for civil contempt is conditional to obtain compliance with an order of the court.” “The contemnor is said to carry the keys of his prison in his own pocket, * * * since he will be freed if he agrees to do as ordered.”

When, however, the contemnor uses the keys by complying with the trial court's instructions for purging contempt, an appeal from the contempt charge is rendered moot.

(Citations omitted.) *McRae v. McRae*, 1st Dist. Hamilton No. C-110743, 2012-Ohio-2463, ¶ 6-7.

The record indicates that Bowie purged the trial court's contempt finding on March 12, 2019, which was prior to his filing of the notices of appeal in these cases.

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The issue of his contempt determination is moot, and we dismiss the appeals numbered C-190232 and C-190233. *See id.* at ¶ 9-10.

We next address the one assignment of error in the appeal numbered C-190358. Bowie's assignment of error addresses the trial court's "decision" to name Brown the sole residential parent and legal custodian of the couple's two children in the case numbered F11-803x. Beginning in September 2017, Brown had been trying to get Bowie to complete a form allowing her to get passports for the children. Over the course of the next several months, Bowie delayed or avoided the issue. Finally, he told her that he would not sign and that she would have to take it up with his lawyer. Brown then filed a pro se motion asking the trial court to name her sole residential parent and legal custodian. The trial court did so without a hearing.

Pursuant to R.C. 3109.042, an unmarried mother is a child's sole residential parent and legal custodian "until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian." Bowie claims that he should be given some consideration because he has "established paternity, his name is on the child's birth certificate, he has a court ordered schedule of visitation and should have equal standing in this determination." But none of that equates to a court of competent jurisdiction giving him custodial rights. Until that occurs, Brown is the sole residential parent and legal custodian of the children by operation of law. The trial court did not so much issue a decision on that issue as it simply recognized that fact. We overrule Bowie's assignment of error and affirm the judgment of the trial court in the appeal numbered C-190358.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., MYERS and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on April 22, 2020
per order of the court _____.

Presiding Judge