

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

September 24, 2026 Session

BARBARA PENNY v. CLIFFORD WALDROUP**Appeal from the Circuit Court for Campbell County**
No. 17937 John D. McAfee, Judge

No. E2026-00932-COA-R3-CV

Because no final order has been entered in the underlying trial court proceedings, this Court lacks jurisdiction to consider this appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

JOHN W. MCCLARTY, P.J., E.S.; THOMAS R. FRIERSON, II, J.; AND KRISTI M. DAVIS, J.

Barbara Rena Penny, Lafollette, Tennessee, Pro Se Appellant.

Hannah Marie Clyde, Knoxville, Tennessee, for the appellee, Clifford Ronald Waldroup.

MEMORANDUM OPINION¹

The appellant, Barbara Penny, filed a notice of appeal with this Court in June 2026, seeking to appeal the final judgment of the Campbell County Circuit Court (“the trial court”). Subsequently, the appellee, Clifford Waldroup, filed a motion seeking to dismiss this appeal arguing that no final judgment has been entered in this case. The motion to dismiss states that the most recent order in the underlying proceedings was entered by the trial court on March 20, 2026, *nunc pro tunc* March 12, 2026. The appellee attached the March 12, 2026 order, in which the trial court enrolled several orders from a Michigan

¹ Rule 10 of the Rules of the Court of Appeals provides:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

state court in the trial court for enforcement purposes. The March 12, 2026 order further provides that “all matters before the Court pertaining to attorney’s fees and/or sanctions shall be held in abeyance.” The motion to dismiss further states that the appellant retained counsel in the trial court proceedings to file a motion to alter, amend, and reconsider the trial court’s order to enroll foreign judgments that remains pending before the trial court. The appellant has not filed a response to the motion to dismiss filed by the appellee.

The pending motion for attorney’s fees prevents a final judgment. *See e.g., E. Solutions for Buildings, LLC v. Knestrick Contractor, Inc.* No. M2017-00732-COA-R3-CV, 2018 WL 1831116, at *4 (Tenn. Ct. App. April 17, 2018) (finding that order directing parties to re-submit requests for attorney’s fees after appeal was “improvidently certified as final,” and holding that because the trial court did not dispose fully and finally of claim for attorney’s fees, this Court lacked jurisdiction); *Grand Valley Lakes Property Owners’ Assoc., Inc. v. Gunn*, No. W2008-01116-COA-R3-CV, 2009 WL 981697, at *3 (Tenn. Ct. App. April 13, 2009) (stating “the circuit court did not resolve Grand Valley’s request for attorney’s fees As we have stated, except as otherwise permitted in Rule 9 and in Rule 54.02, an order adjudicating fewer than all the claims of the parties is not a final, appealable order.”).

Furthermore, this Court has previously held that a pending motion for sanctions filed prior to entry of a final judgment generally prevents a judgment from becoming final until resolution of the pending motion for sanctions. *See Menche v. White Eagle Prop. Grp., LLC*, No. W2018-01336-COA-R3-CV, 2019 WL 4016127, at *6 (Tenn. Ct. App. Aug. 26, 2019) (“[I]n the typical case wherein the trial court enters judgment for one party, the judgment does not become final unless and until a pending motion for sanctions is adjudicated.”).

Based on the foregoing, the order appealed from does not appear to be “a final judgment adjudicating all the claims, rights, and liabilities of all parties” from which an appeal as of right would lie. *See* Tenn. R. App. P. 3(a). “A final judgment is one that resolves all the issues in the case, ‘leaving nothing else for the trial court to do.’” *In re Estate of Henderson*, 121 S.W.3d 643, 645 (Tenn. 2003) (quoting *State ex rel. McAllister v. Goode*, 968 S.W.2d 834, 840 (Tenn. Ct. App. 1997)). This Court does not have subject matter jurisdiction to adjudicate an appeal as of right if there is no final judgment. *See Bayberry Assocs. v. Jones*, 783 S.W.2d 553, 559 (Tenn. 1990) (“Unless an appeal from an interlocutory order is provided by the rules or by statute, appellate courts have jurisdiction over final judgments only.”).

As such, based on the motion to dismiss and accompanying documents from the underlying proceedings, no final appealable judgment has been entered in the proceedings below. We, therefore, grant the appellee’s motion to dismiss this appeal for lack of jurisdiction. This appeal is hereby dismissed without prejudice to the appellant’s ability to file a notice of appeal when a final judgment is entered in the trial court proceedings

resolving all issues below. Costs on appeal are taxed to the appellant, Barbara Penny, for which execution may issue.²

PER CURIAM

² We note that the appellant filed a motion to proceed as indigent in this appeal. However, the appellant's alleged indigency does not relieve her from paying the court costs associated with this appeal. *See* Tenn. Code Ann. § 20-12-127(b) (stating that the filing of a civil action upon a pauper's oath "does not relieve the person filing the action from responsibility for the costs or taxes but suspends their collection until taxed by the court"). Therefore, the appellant's motion is DENIED as moot.