

IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO

BRISTOL TOWNSHIP BOARD OF TRUSTEES,	:	MEMORANDUM OPINION
	:	
Plaintiff-Appellee,	:	CASE NO. 2010-T-0084
	:	
- vs -	:	
	:	
JAMES HANEY, et al.,	:	
	:	
Defendants-Appellants.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2009 CV 01733.

Judgment: Appeal dismissed.

Mark S. Finamore, 258 Seneca Avenue, N.E., P.O. Box 1109, Warren, OH 44481 (For Plaintiff-Appellee).

Frank R. Bodor, 157 Porter Street, N.E., Warren, OH 44483 (For Defendants-Appellants).

DIANE V. GRENDELL, J.

{¶1} On June 30, 2010, appellants, James Haney and Tamara Haney, filed a notice of appeal from a June 11, 2010 judgment entry of the Trumbull County Court of Common Pleas.

{¶2} On June 29, 2009, appellee, Bristol Township Board of Trustees, filed with the trial court a complaint for declaratory judgment against appellants. On April 15, 2010, appellants filed a motion for summary judgment. The trial court denied

appellants' motion on June 11, 2010. Appellants filed the instant appeal from that decision.

{¶3} Section 3(B)(2), Article IV of the Ohio Constitution limits the jurisdiction of an appellate court to the review of final judgments of lower courts. *Germ v. Fuerst*, 11th Dist. No. 2003-L-116, 2003-Ohio-6241, ¶3. In order for a judgment to be final and appealable, the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, must be satisfied. See *Alden v. Kovar*, 11th Dist. Nos. 2006-T-0050 and 2006-T-0051, 2006 WL 1816263, at ¶5, citing to *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, 88.

{¶4} Pursuant to R.C. 2505.02(B), there are five categories of a “final order,” and if a trial court’s judgment satisfies any of them, it will be considered a “final order” which can be immediately appealed and reviewed by a court of appeals.

{¶5} Here, appellants have attempted to appeal the denial of a motion for summary judgment. The trial court’s entry does not fit within any of the categories of R.C. 2505.02. “An order denying a motion for summary judgment is not a final appealable order.” *State ex rel. Overmeyer v. Walinski* (1966), 8 Ohio St.2d 23. Moreover, the denial of summary judgment is always reviewable on an appeal from a subsequent final judgment. *Sagenich v. Erie Ins. Group* (Dec. 12, 2003), 11th Dist. No. 2003-T-0144, 2003 WL 22952586, at ¶3. Furthermore, the mere inclusion of Civ.R. 54(B) language into a non-final order does not transform it into a final and appealable order. *Sason v. Shepherd*, 11th Dist. No. 2007-L-199, 2008-Ohio-173, at ¶3.

{¶6} Based upon the foregoing analysis, the judgment of the trial court is not a final appealable order. Appellants will have a meaningful and effective remedy by way of an appeal once a final judgment is reached as to all claims and parties when the case

is decided and/or dismissed. See *Johnson v. Warren Police Dept.*, 11th Dist. No. 2005-T-0117, 2005-Ohio-6904, at ¶14. Furthermore, the addition of Civ.R. 54(B) language in the June 11 entry does not transform that entry into a final appealable order. Thus, this court is without jurisdiction to consider this appeal, and this appeal is hereby, sua sponte, dismissed for lack of a final appealable order.

{¶7} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

TIMOTHY P. CANNON, J.,

concur.