

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY, OHIO**

JOHN ROHAL,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2010-P-0068
L. PETER OLCESE, a.k.a. LOUIS	:	
PETER OLCESE, a.k.a.	:	
ROBERT LEE PRICE,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2008 CV 1407.

Judgment: Appeal dismissed.

Scott J. Flynn, Flynn, Keith & Flynn, 250 South Water Street, P.O. Box 762, Kent, OH 44240 (For Plaintiff-Appellee).

L. Peter Olcese, pro se, PID: 554-182, Marion Correctional Institution, P.O. Box 57, Marion, OH 43301 (Defendant-Appellant).

MARY JANE TRAPP, P.J.

{¶1} On August 31, 2010, appellant, L. Peter Olcese, filed a pro se notice of appeal from an August 13, 2010 entry of the Portage County Court of Common Pleas, in which the trial court denied his motion to have Jeffrey Keith serve as his co-counsel.

{¶2} The docket in this case reveals that on August 4, 2010, Mr. Olcese filed a motion to allow co-counsel. In that motion, Mr. Olcese indicated that he and Jeffrey Keith, an inmate and former attorney, became acquainted. In denying the motion, the trial court explained that since this is a civil case, Mr. Olcese has no right to appointed

counsel. If Mr. Olcese chooses to obtain counsel, the attorney chosen must be properly licensed to practice law in Ohio. The trial court further stated that “[a] former attorney incarcerated for a felony conviction does not meet this criteria.”

{¶3} We must determine whether the denial of a motion to allow co-counsel is a final appealable order. According to Section 3(B)(2), Article IV of the Ohio Constitution, a judgment of a trial court can be immediately reviewed by an appellate court only if it constitutes a “final order” in the action. *Germ v. Fuerst*, 11th Dist. No. 2003-L-116, 2003-Ohio-6241, ¶3. If a lower court’s order is not final, an appellate court does not have jurisdiction to review it and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. of N. Am.* (1989), 44 Ohio St.3d 17, 20. For a judgment to be final and appealable, it must satisfy the requirements of R.C. 2505.02 and if applicable, Civ.R. 54(B).

{¶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} R.C. 2505.02(B) states that:

{¶6} “An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

{¶7} “(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

{¶8} “(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

{¶9} “(3) An order that vacates or sets aside a judgment or grants a new trial;

{¶10} “(4) An order that grants or denies a provisional remedy and to which both of the following apply:

{¶11} “(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

{¶12} “(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

{¶13} “(5) An order that determines that an action may or may not be maintained as a class action;

{¶14} (6) An order determining the constitutionality of any changes to the Revised Code ***.”

{¶15} Here, the denial of a motion to allow co-counsel does not fall under any of the categories for being a final order pursuant to R.C. 2505.02(B). Specifically, the order Mr. Olcese appealed from does not meet the threshold showing of affecting a substantial right. There is no right to have a non-attorney represent you in any legal proceeding. Jeffrey Keith, a former attorney, is incarcerated and was permanently disbarred by the Supreme Court of Ohio in July, 2001. Therefore, the trial court’s order is not a final appealable order.

{¶16} Accordingly, this appeal is hereby sua sponte dismissed for lack of a final appealable order.

{¶17} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

TIMOTHY P. CANNON, J.,

concur.