[Cite as *Snype v. All Am. Inspection L.L.C.*, 2011-Ohio-4025.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

PORTAGE COUNTY, OHIO

EMELDA SNYPE,	:	**MEMORANDUM OPINION**
Plaintiff-Appellant,	:	**CASE NO. 2011-P-0039**
- vs -	:	
ALL AMERICAN INSPECTION LLC, et al.,	:	**8-12-11**
Defendants-Appellees.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2010 CV 1279.

Judgment: Appeal dismissed.

Emelda Snype, pro se, 20681 Bowling Green Road, Maple Heights, OH 44137 (Plaintiff-Appellant).

Frank Leonetti, III, Reminger & Reminger Co., L.P.A., 1400 Midland Building, 101 Prospect Avenue, West, Cleveland, OH 44115-1093 (For Defendant-Appellee, All American Inspection LLC).

James Michael Stanovic, Law Office of James M. Stanovic, 6020 State Road, MJ Building, Suite 1, Parma, OH 44134 (For Defendant-Appellee, AC Loan Care).

DIANE V. GRENDELL, J.

{¶1} On June 6, 2011, appellant, Emelda Snype, pro se, filed a notice of appeal from a March 25, 2011 entry of the Portage County Court of Common Pleas.

{¶2} The docket in this matter reveals that on August 13, 2010, appellant filed a complaint against appellees, All American Inspection LLC and AC Loan Care. On October 12, 2010, appellant filed a motion for default judgment. On October 25, 2010,

All American filed its answer. Appellant filed an amended request for default judgment on October 26, 2010. The trial court overruled appellant's motion on October 27, 2010. AC Loan Care filed its answer on November 1, 2010. On March 9, 2011, appellant filed a "Motion for Judgment by Default." On March 25, 2011, the trial court denied that motion. Appellant appealed that decision to this court on June 6, 2011.

{¶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 *Geauga Cty. Treasurer v. Segedy*, 11th Dist. No. 2009-G-2907, 2009-Ohio-3941 at ¶3, 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 seven categories of a "final order," and if a trial court's judgment satisfies any of them, and Civ.R. 54(B), if applicable, it will be considered a "final order" which can be immediately appealed and reviewed by a court of appeals.

{¶5} Here, the trial court's order does not fit within any of the categories of R.C. 2505.02. The denial of default judgment by the trial court is analogous to the denial of summary judgment. See *Segedy,* 2009-Ohio-3941, at ¶4. The Supreme Court of Ohio has stated that "[a]n 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. However, the denial of summary judgment is always reviewable on an appeal from a subsequent final judgment. *Sagenich v. Erie Ins. Group*, 11th Dist. No. 2003-T-0144, 2003-Ohio-6767, at ¶3.

{¶6} "While the trial court's judgment in this case denied [appellant] an immediate remedy much like the denial of a summary judgment, it clearly did not determine the action or prevent a judgment." *Segedy*, 2009-Ohio-3941, at ¶5. The trial court's determination may prolong the matter, but it does not decide the case. The denial of a default judgment is simply an interlocutory order. Id. See, also, *Kondrat v. Mitrovich* (May 25, 1984), 11th Dist. No. 9-185, 1984 Ohio App. LEXIS 10054, *1; *Rulli v. Rulli*, 7th Dist. No. 01 CA 114, 2002-Ohio-3205, at ¶12; *Haley v. Reisinger*, 9th Dist. No. 24376, 2009-Ohio-447, at ¶q13.

{¶7} Thus, the denial of a default judgment is not a final order, and appellant 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. *Johnson v. Warren Police Dept.*, 11th Dist. No. 2005-T-0117, 2005-Ohio-6904, at ¶14.

{¶8} Furthermore, in the event that the March 25, 2011 entry was a final order, appellant's appeal was not timely filed. The notice of appeal was filed on June 6, 2011, which was seventy-three days after the trial court issued its judgment. Appellant's notice of appeal was due on Monday, April 25, 2011, which was not a holiday or a weekend.

{¶9} App.R. 4(A) states that:

{¶10} "A party shall file the notice of appeal required by App.R. 3 within thirty days of the later of entry of the judgment or order appealed or, in a civil case, service of the notice of judgment and its entry if service is not made on the party within the three day period in Rule 58(B) of the Ohio Rules of Civil Procedure."

{¶11} Loc.R. 3(D)(2) of the Eleventh District Court of Appeals provides:

{¶12} "In the filing of a Notice of Appeal in civil cases in which the trial court clerk has not complied with Ohio Civ.R. 58(B), *and the Notice of Appeal is deemed to be filed out of rule*, appellant shall attach an affidavit from the trial court clerk stating that service was not perfected pursuant to Ohio App.R. 4(A). The clerk shall then perfect service and furnish this Court with a copy of the appearance docket in which date of service has been noted. Lack of compliance shall result in the sua sponte dismissal of the appeal under Ohio App.R. 4(A)." (Emphasis sic.)

{¶13} Here, appellant has neither complied with the thirty-day rule set forth in App.R. 4(A) nor alleged that there was a failure by the trial court clerk to comply with Civ.R. 58(B). The time requirement is jurisdictional in nature and may not be enlarged by an appellate court. *State ex rel. Pendell v. Adams Cty. Bd. of Elections* (1988), 40 Ohio St.3d 58, 60; App.R. 14(B).

{¶14} For the foregoing reasons, this appeal is hereby sua sponte dismissed for lack of a final appealable order and as being untimely.

{¶15} Appeal dismissed.

CYNTHIA WESTCOTT RICE, J.,

THOMAS R. WRIGHT, J.,

concurs.