

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

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| WILLIAM DILLEY, | : | MEMORANDUM OPINION |
| Plaintiff-Appellant, | : | |
| - vs - | : | CASE NO. 2011-G-3030 |
| TATIANA DILLEY, | : | |
| Defendant-Appellee. | : | |

Civil Appeal from the Court of Common Pleas, Case No. 08 DC 000591.

Judgment: Appeal dismissed.

Joyce E. Barrett, 800 Standard Building, 1370 Ontario Street, Cleveland, OH 44113-1752 (For Plaintiff-Appellant).

Heidi M. Cisan, Thrasher, Dinsmore & Dolan Co., L.P.A., 100 Seventh Avenue, Suite 150, Chardon, OH 44024-1079 (For Defendant-Appellee).

TIMOTHY P. CANNON, P.J.

{¶1} On July 27, 2011, appellant, William Dilley, filed a notice of appeal from a July 15, 2011 entry of the Geauga County Court of Common Pleas. In that entry, the court found appellant to be in contempt of court for his failure to comply with the March 10, 2010 judgment entry of divorce. Appellant was ordered to pay appellee, Tatiana Dilley, the sum of \$55,775.92 and was ordered to pay appellee an additional 20% toward the existing spousal support arrearage. Based upon this finding, the trial court

sentenced appellant to serve ten days in the Geauga County Jail. The court stayed execution on the sentence on the condition that appellant purges his contempt.

{¶2} Under the case law of this state, when a trial court makes a finding of contempt and imposes a penalty or sanction, but allows an opportunity to purge, the order is not final and appealable. *Estate of Sheehan*, 11th Dist. No. 2007-G-2774, 2007-Ohio-2571, at ¶4. See, also, *Chain Bike Corp. v. Spoke 'N Wheel, Inc.* (1979), 64 Ohio App.2d 62; *Nelson v. Nelson*, 11th Dist. No. 2006-G-2696, 2006-Ohio-4944.

{¶3} In this case, although the appealed judgment made a specific finding of contempt and imposed a penalty, the trial court offered appellant an opportunity to purge the contempt by paying appellee on or before September 1, 2011. Further, it appears from the trial court docket that the court has set a hearing on November 21, 2011, on appellee's motion to impose jail sentence for failure to comply with the terms of the July 15, 2011 judgment entry. Until a second order is entered by the trial court imposing sentence without an opportunity to purge, the issue of contempt is not ripe for review. *Welch v. Welch*, 11th Dist. No. 2004-L-178, 2005-Ohio-560, at ¶5. See *Sheehan*, supra, at ¶6.

{¶4} Based upon the foregoing, this appeal is hereby dismissed for lack of a final, appealable order. Further, all pending motions are hereby overruled as moot.

{¶5} Appeal dismissed.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.