

COURT OF APPEALS OF OHIO, ELEVENTH APPELLATE DISTRICT,
PORTAGE COUNTY

State v. Forro

2022-Ohio-4691 (Ohio Ct. App. 2022) · No. 2022-P-0014 · Decided December 27, 2022

SUMMARY

The Eleventh District Court of Appeals of Ohio dismissed James A. Forro’s appeal for lack of a final appealable order. The appealed entry denied his motion to modify probation, requested additional medical documentation concerning medical marijuana use, and scheduled another hearing, so it did not satisfy the requirements of R.C. 2505.02(B).

CASE DETAILS

COURT	Court of Appeals of Ohio, Eleventh Appellate District, Portage County
WRITING FOR THE COURT	Mary Jane Trapp, J.; John J. Eklund, P.J.; James A. Brogan, J., Ret., sitting by assignment
JURISDICTION	Ohio
DECIDED	December 27, 2022
DOCKET	2022-P-0014
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant appealed from a judgment entry denying his motion to modify probation, requesting additional medical documentation concerning medical-marijuana use, and rescheduling the matter for another hearing. The State moved to dismiss the appeal for lack of jurisdiction because the entry was not a final appealable order.
STANDARD OF REVIEW	The appellate court independently examined its subject-matter jurisdiction and sua sponte determined whether the appealed entry was a final appealable order.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status not otherwise specified in the opinion text.
PARTIES	James A. Forro v. State of Ohio

TOPICS

- final judgment rule
- appellate jurisdiction
- appellate procedure
- criminal procedure
- probation

PRACTICE AREAS

criminal appellate procedure

probation and community control

QUESTIONS PRESENTED

1. Whether the January 31, 2022 judgment entry concerning Forro's motion to modify probation was a final appealable order.
2. Whether the Court of Appeals had jurisdiction over the appeal under the Ohio Constitution, R.C. 2505.02(B), and R.C. 2953.02.

HOLDINGS

1. The judgment entry was not a final appealable order because it did not satisfy any category listed in R.C. 2505.02(B) and contemplated a second hearing on the motion to modify probation.

KEY QUOTATIONS

“In the absence of a final, appealable order, an appellate court does not have jurisdiction to review the matter and must dismiss the appeal.” (¶ 5)

“The appealed judgment entry in the instant case does not conform to any of the criteria in R.C. 2505.02(B) for being a final appealable order.” (¶ 15)

FACTUAL BACKGROUND

Forro pleaded guilty to one count of fourth-degree-felony menacing by stalking and received five years of community control with conditions, including random substance-abuse testing. He sought to modify probation to permit medical-marijuana use. The trial court denied the motion as presented, requested additional supporting medical documentation, and scheduled another hearing.

PROCEDURAL HISTORY

Forro pleaded guilty to menacing by stalking and was sentenced to five years of community control, including random substance-abuse testing. He later moved to modify probation. After a January 31, 2022 hearing, the trial court denied the motion, requested additional medical documentation, and continued the matter for another hearing. The Court of Appeals dismissed the appeal because the entry did not constitute a final appealable order.

DISPOSITION

dismissed

CASES CITED

- State v. Collins, 8th Dist. Cuyahoga No. 110994, 2022-Ohio-2143, ¶ 13