

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Bak v. Bak

110 So. 3d 523 (Fla. 4th DCA 2013) · Decided April 3, 2013

SUMMARY

The Florida Fourth District Court of Appeal dismissed Itzhak Bak’s appeal as untimely. The court held that the thirty-day appeal period ran from rendition of the non-final status report order, and that a motion for reconsideration did not suspend rendition because rehearing is not authorized for non-final orders.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Per Curiam; May, C.J.; Taylor, J.; Conner, J.
JURISDICTION	Florida
DECIDED	April 3, 2013
DISPOSITION	dismissed
PROCEDURAL POSTURE	Itzhak Bak appealed an order denying his motion for reconsideration of a nonfinal status report order concerning reunification.
STANDARD OF REVIEW	The timeliness of a notice of appeal and the resulting appellate jurisdiction are reviewed as matters of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Itzhak Bak v. Joyce Bak

TOPICS

appellate procedure

appellate jurisdiction

family law procedure

family law

PRACTICE AREAS

Appellate procedure

Family law

QUESTIONS PRESENTED

1. Whether the appeal was timely when the notice of appeal was filed more than thirty days after rendition of the nonfinal status report order.

2. Whether a motion for rehearing or reconsideration suspended rendition of the nonfinal status report order and extended the time for appeal.

HOLDINGS

1. A motion for rehearing does not suspend rendition of a nonfinal order because rehearing is not authorized for nonfinal orders.
2. The appeal had to be dismissed because Bak did not file his notice of appeal within thirty days after rendition of the status report order.

KEY QUOTATIONS

“Failing to file a notice of appeal within the time limits “constitutes an irremediable jurisdictional defect.””
(524)

FACTUAL BACKGROUND

The trial court entered a status report order addressing reunification efforts and providing that Itzhak Bak would have no further time with the children until further agreement or court order. The order conditioned future contact on the agreement of therapists working with the children and Bak and did not end the reunification proceedings. Bak filed a notice of appeal fifty-one days after the order was rendered, after the trial court denied his motion for reconsideration.

PROCEDURAL HISTORY

The trial court rendered a status report order concerning reunification on April 19, 2012. Bak moved for reconsideration, and the trial court denied that motion on May 14, 2012. He filed his notice of appeal on June 8, 2012, fifty-one days after rendition of the status report order. The Fourth District dismissed the appeal as untimely for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Wegner v. Schillinger, 921 So. 2d 854, 855 (Fla. 4th DCA 2006)
- Hunt v. Forbes, 65 So. 3d 133, 134 (Fla. 4th DCA 2011)

OPINION

PER CURIAM.

PER CURIAM. Itzhak Bak appeals the trial court’s order denying his motion for reconsideration of a status report order regarding reunifi*524cation. We dismiss Itzhak’s appeal as untimely. A notice of appeal must be filed within thirty days of the date an order is rendered, i.e., signed and filed with the clerk. Fla. R. App. P. 9.110(b), 9.020(h).

The status report order Itzhak seeks to appeal was rendered on April 19, 2012, and the notice of appeal was filed on June 8, 2012, or fifty-one days after the status report order was rendered. Before appealing, Itzhak moved for reconsideration of the status report order, and the trial court entered an order denying the motion.

The order denying the motion for reconsideration was rendered on May 14, 2012, which was less than thirty days before the notice of appeal was filed. But while a timely motion for rehearing will suspend rendition of a final order until entry of the order disposing of the motion for rehearing, Fla. R. App. P. 9.020(h), a motion for rehearing does not suspend rendition of a non-final order because rehearing is not authorized for non-final orders.

See *Wegner v. Schillinger*, 921 So.2d 854, 855 (Fla. 4th DCA 2006). The status report order entered by the trial court was not a final order ending the reunification proceedings; the order provided in part that there would be no further efforts to have Itzhak spend time with the children “until further written agreement of both parents and the GAL or until further Order of the court” and predicated future contact between Itzhak and the children upon the agreement of the therapists working with the children and Itzhak.

Failing to file a notice of appeal within the time limits “constitutes an irremediable jurisdictional defect.” *Hunt v. Forbes*, 65 So.3d 133, 134 (Fla. 4th DCA 2011). Because Itzhak failed to file the notice of appeal within thirty days of the rendition of the status report, we are required to dismiss his appeal for lack of jurisdiction. Dismissed. MAY, C.J., TAYLOR and CONNER, JJ., concur.