

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

Koleno v. Koleno

2026-Ohio-1876 · No. 2026-A-0013 · Decided May 21, 2026

SUMMARY

The Ohio Eleventh District Court of Appeals sua sponte dismissed Christina Kelly Koleno’s appeal for lack of jurisdiction. The court held that the underlying dismissal without prejudice was not a final appealable order because the appellant could potentially refile the complaint.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eleventh Appellate District, Ashtabula County
WRITING FOR THE COURT	Eugene A. Lucci, J.; Robert J. Patton, J.; Scott Lynch, J.
JURISDICTION	Ohio Court of Appeals, Eleventh Appellate District, Ashtabula County
DECIDED	May 21, 2026
DOCKET	2026-A-0013
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant appealed from a trial-court entry denying her motion to set aside a magistrate's order and motion to stay. The appellate court sua sponte dismissed the appeal for lack of jurisdiction because the underlying dismissal without prejudice was not a final appealable order.
STANDARD OF REVIEW	Jurisdictional review of whether the appealed order is a final appealable order.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Christina Kelly Koleno v. William T. Koleno, II

TOPICS

- family law procedure
- appellate jurisdiction
- final judgment rule
- appellate procedure
- civil procedure

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the trial-court order was a final appealable order subject to immediate appellate review.
2. Whether a dismissal without prejudice under Ohio Civ.R. 41(B)(3) constitutes a final appealable order when the plaintiff may refile or amend the complaint.

HOLDINGS

1. An Ohio appellate court may review only final judgments or orders; when the challenged order is not final, the appellate court lacks jurisdiction and must dismiss the appeal.
2. A dismissal without prejudice is not a final appealable order when the party may refile or amend the complaint.

KEY QUOTATIONS

“An appellate court may only consider appeals from final judgments or orders.” (¶ 2)

“Accordingly, this appeal is hereby, sua sponte, dismissed for lack of jurisdiction.” (¶ 4)

FACTUAL BACKGROUND

The trial court dismissed the underlying domestic-relations action without prejudice. Christina Kelly Koleno sought to set aside a magistrate's order and to stay proceedings, but the trial court denied both motions in an entry dated February 26, 2026. She appealed that entry, and the appellate court determined that the ability to refile the complaint meant the dismissal did not constitute a final appealable order.

PROCEDURAL HISTORY

Christina Kelly Koleno filed a notice of appeal from the February 26, 2026 judgment of the Ashtabula County Court of Common Pleas in a domestic-relations case. The trial court's ruling involved denial of a motion to set aside a magistrate's order and denial of a motion to stay, and the case record indicates that the underlying action had been dismissed without prejudice. The Eleventh District concluded that the order was not final and appealable and dismissed the appeal sua sponte.

DISPOSITION

dismissed

CASES CITED

- Noble v. Colwell, 44 Ohio St.3d 92, 96 (1989)
- Tamarac Apts., LLC v. Austin, 2025-Ohio-2737, ¶ 4 (11th Dist.)
- Heart v. Ferron, 2021-Ohio-2184, ¶ 3 (11th Dist.)

OPINION

Koleno v. Koleno

2026 Ohio 1876

PER CURIAM.

[Cite as Koleno v. Koleno, 2026-Ohio-1876.]

IN THE COURT OF APPEALS OF OHIO

ELEVENTH APPELLATE DISTRICT

ASHTABULA COUNTY

CHRISTINA KELLY KOLENO, CASE NO. 2026-A-0013

Plaintiff-Appellant, Civil Appeal from the - vs - Court of Common Pleas

WILLIAM T. KOLENO, II,

Trial Court No. 2024 DR 00475 Defendant-Appellee.

MEMORANDUM OPINION AND JUDGMENT ENTRY

Decided: May 21, 2026 Judgment: Appeal dismissed Dennis D. Decamillo, Decamillo Law, L.L.C., 1027 Lake Avenue, Ashtabula, OH 44004 (For Plaintiff-Appellant). Malcolm Stewart Douglas, 113 North Chestnut Street, Jefferson, OH 44047 (For Defendant-Appellee). EUGENE A. LUCCI, J. {¶1} On March 5, 2026, appellant, Christina Kelly Koleno, through counsel, filed a notice of appeal from a February 26, 2026 judgment of the Ashtabula County Court of Common Pleas. In that entry, the trial court denied her motion to set aside the magistrate’s order and denied her motion to stay. {¶2} An appellate court may only consider appeals from final judgments or orders. *Noble v. Colwell*, 44 Ohio St.3d 92, 96 (1989). Ohio Const., art. IV, § 3(B)(2) provides that a trial court’s judgment can only be immediately reviewed by an appellate court if it constitutes a “final order” in the action. *Tamarac Apts., LLC v. Austin*, 2025- Ohio-2737, ¶ 4 (11th Dist.). If a lower court’s order is not final, an appellate court has no jurisdiction to review the matter, and it must be dismissed. *Id.* {¶3} A dismissal pursuant to Civ.R. 41(B)(3), “operates as an adjudication upon the merits unless the court, in its order for dismissal, otherwise specifies.” Generally, a dismissal without prejudice constitutes “an adjudication otherwise than on the merits” with no res judicata bar to refile the suit. *Heart v. Ferron*, 2021-Ohio-2184, ¶ 3 (11th Dist.). This court has stated that a dismissal without prejudice leaves a party in the same position the party would have been in prior to the action being filed. *Id.* Furthermore, a dismissal without prejudice is not a final appealable order because a party may refile or amend a complaint. *Id.* {¶4} In the present matter, because the trial court’s dismissal was without prejudice, appellant cannot now appeal. Since she may have the ability to refile her complaint, the trial court’s dismissal without prejudice is not a final appealable order. Accordingly, this appeal is hereby, sua sponte, dismissed for lack of jurisdiction. {¶5} Appeal dismissed.

ROBERT J. PATTON, J.,

SCOTT LYNCH, J.,

concur.

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JUDGMENT ENTRY

For the reasons stated in the memorandum opinion of this court, this appeal is hereby sua sponte dismissed for lack of jurisdiction. Costs to be taxed against appellant.

JUDGE EUGENE A. LUCCI

JUDGE ROBERT J. PATTON,

concur

JUDGE SCOTT LYNCH,

concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.

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