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2017 IL App (3d) 160130-U

Order filed January 19, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

CHARLES BOCOCK,)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
Plaintiff-Appellant,)	Will County, Illinois.
)	
v.)	Appeal No. 3-16-0130
)	Circuit No. 16-MR-108
WILL COUNTY STATE’S ATTORNEY,)	
)	Honorable
Defendant-Appellee)	Bennett J. Braun
)	Judge, Presiding

JUSTICE O’BRIEN delivered the judgment of the court.
Justices Schmidt and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* Appeal dismissed for lack of appellate jurisdiction based on lack of final order.

¶ 2 Plaintiff Charles Boccock sought the appointment of a special prosecutor to investigate the conduct of the Will County State’s Attorney’s Office in pursuing charges against him. The trial court denied the petition and dismissed the case. We dismiss the appeal for lack of jurisdiction because the order from which Boccock appealed was not a final order.

¶ 3

FACTS

¶ 4

Plaintiff Charles Bocock filed a petition seeking the appointment of a special prosecutor, alleging that defendant Will County State's Attorney's Office and local law enforcement engaged in misconduct and illegal acts in investigating and prosecuting him. In his petition, Bocock listed the offenses the State's Attorney's allegedly committed and argued there were no statutory exemptions or exceptions for the State's Attorney's conduct. He further argued the State's Attorney's Office and law enforcement violated his due process and their ethical responsibilities in investigating and prosecuting him. Bocock's petition did not name the Will County State's Attorney's Office and the office was not served.

¶ 5

The State filed a response, arguing the petition was a collateral attack on a prior ruling in Bocock's criminal case, that the petition was premature, and that its conduct was covered under statutory exemptions and exceptions.

¶ 6

The trial court issued an order on March 10, 2016, denying Bocock's petition. The order stated that Bocock's petition was "not well taken." The trial court's docket for March 10, 2016, stated: "Dismissed without Prejudice. *** Petition is Denied. *** Case is dismissed." The docket also stated: "File is Closed. Dismissed." Bocock filed a notice of appeal on March 14, 2016. The notice of appeal indicated Bocock was appealing the March 10 dismissal "with prejudice" of his petition for a special prosecutor.

¶ 7

ANALYSIS

¶ 8

The issue on appeal is whether the trial court erred when it denied Bocock's petition for the appointment of a special prosecutor. He argues that the trial court's denial was based on his failure to name the State's Attorney's Office as a defendant and that the evidence indicates

employees of the State's Attorney's Office committed various crimes in pursuing the criminal case against him.

¶ 9 We must first consider our jurisdiction to hear Bocoock's appeal. Neither party has raised this issue but we address it *sua sponte*. *Vowell v. Pedersen*, 315 Ill. App. 3d 665, 665 (2000). The appellate court is vested with jurisdiction over timely filed final judgments entered in the trial court. *State Farm Fire & Casualty Co. v. John J. Rickhoff Sheet Metal Co.*, 394 Ill. App. 3d 548, 556 (2009). A judgment is final when it determines the issues and fixes the rights of the parties and the only thing left to do is execution of the judgment. *Flores v. Dugan*, 91 Ill. 2d 108, 112 (1982). The term "without prejudice" indicates that a trial court did not make a final determination of the parties' rights and that the order is not final and appealable. *Renzulli v. Zoning Board of Appeals*, 176 Ill. App. 3d 661, 663-64 (1988). An appellate court lacks jurisdiction to review nonfinal judgments. *EMC Mortgage Corp. v. Kemp*, 2012 IL 113419, ¶ 9.

¶ 10 Bocoock's notice of appeal and jurisdictional statement in his appellate brief characterize the trial court's dismissal as "with prejudice." However, there is no support for the characterization. The trial court order states only that the "Court finds petition not well taken and denies the petition." CL44. There is no report of proceedings of the hearing. The trial court docket establishes that Bocoock's petition was denied and his case dismissed "without prejudice." The docket is the only evidence before this court of the status of the dismissal. We consider it sufficient to establish that the trial court's order was not final. See *Williams v. BNSF Railway Co.*, 2015 IL 117444, ¶ 34 (finding that party could supplement the record with the trial court "law record" to establish status of posttrial motions). Because the trial court docket states that Bocoock's petition was dismissed without prejudice, we find the dismissal order was not a final order and we lack jurisdiction to consider Bocoock's appeal.

¶ 11 For the foregoing reasons, this appeal is dismissed.

¶ 12 Appeal dismissed.