

IN THE MISSOURI COURT OF APPEALS, EASTERN DISTRICT

DANNY ROBERSON,)	
)	
Appellant,)	No. ED113921
)	
v.)	
)	
RACHEL HOMOLAK, et al.,)	
)	
Respondents)	

MOTION TO DISMISS FOR LACK OF APPELLATE JURISDICTION

Respondent Chris Barrett moves for this Court to dismiss this appeal for lack of appellate jurisdiction. Appellate jurisdiction is lacking on the following grounds:

1. Appellant Danny Roberson has filed a notice of appeal (Exhibit 1) from two trial court orders—the trial court’s order of September 3, 2025, granting all served Respondents’ motions to dismiss for failure to state a claim (Ex.1 at 6-9), and the trial court’s order dated September 4, 2025, dismissing Roberson’s remaining count against Defendant “JW” for failure to prosecute (Ex.1 at 10). The September 3, 2025, order does not resolve all claims against all parties as it still left Roberson’s claims against Defendant “JW” to be resolved. And while the September 4, 2025, order dismissing all claims against JW for failure to prosecute did resolve all remaining claims, it was not denominated as either a “judgment” or a “decree.” As such, neither ruling is a final judgment over which this Court has appellate jurisdiction. *See* Rule 74.01(a); *State ex rel. Henderson v. Asel*, 566 S.W.3d 596, 599 (Mo. 2019). Consequently, this Court should dismiss this appeal.

Background and Procedural History

2. Roberson filed a petition raising claims of “defamation with alternatives” against Defendants JW, Vanessa Hagedorn, Grace Church St. Louis, Jane Puszkar, and Chris Barrett. He also filed raised civil conspiracy accounts against Homolak, Puszkar, and Grace Church St. Louis as one group, and against Homolak and Barrett as another group. (Exhibit 2 at 2).

3. All defendants except JW entered appearances and filed motions to dismiss for failure to state a claim on all counts. (Exhibits 2 through 6).

4. The trial court granted all motions to dismiss on September 3, 2025 in a written order. (Ex.1 at 6-9).

5. One day later—on September 4, 2025—the trial court entered a ruling in writing denominated “order” dismissing Roberson’s remaining claim against JW for failure to prosecute. (Ex.1 at 10).

6. Roberson filed a notice of appeal on October 3, 2025. (Ex. 1). In his notice of appeal, Roberson indicated he was appealing the trial court’s orders of September 3, 2025, and September 4, 2025. (Ex.1 at 1).

Analysis

7. “The right to appeal is purely statutory and, where a statute does not give a right to appeal, no right exists.” *First Nat’l Bank of Dietrich v. Pointe Royale Prop. Owners’ Assoc.*, 515 S.W.3d 219, 221 (Mo. 2017) (quoting *Buemi v. Kerckhoff*, 359 S.W.3d 16, 20 (Mo. 2011)). Aside from situations not relevant here, this Court is limited to appellate jurisdiction over final judgments. *See Wilson v. City of St. Louis*,

600 S.W.3d 763, 765 (Mo. 2020); Mo. Rev. Stat. § 512.020(5). Appellate jurisdiction cannot be waived, *Bauer v. Board of Election Comm’rs*, 198 S.W.3d 161, 164 n.5 (Mo. App. E.D. 2006), and this Court has an independent duty to ensure appellate jurisdiction exists. *Pointe Royale*, 515 S.W.3d at 221.

8. For a judgment to be final—and thus eligible for appeal—it must (1) be in writing; (2) signed by the judge; (3) resolve all remaining claims against all remaining parties; and (4) be denominated either “judgment” or “decree.” *See* Rule 74.01(a); *Asel*, 566 S.W.3d at 598-99.

9. Consequently, a ruling denominated “order” is not a final judgment subject to appeal, even if it purports to resolve all remaining claims against all remaining defendants. *Asel*, 566 S.W.3d at 599.

10. Here, the trial court’s order of September 3, 2025, granted all of the served parties’ motions to dismiss all claims against them, leaving only Roberson’s claim against JW. (Ex. 1 at 6-9). Because the claim against JW remained, this order was not a final judgment. *See id.* at 598-99; Rule 74.01(b). And while the September 5, 2025, order purported to resolve all of the remaining claims by dismissing Roberson’s claim against JW, (Ex.1 at 10), the trial court’s denomination of it as an “order” means it is not a final judgment eligible for appeal. *See Asel*, 566 S.W.3d at 599; Rule 74.01(a).

11. Consequently, since these are the only two orders included in Roberson’s notice of appeal, this Court lacks appellate jurisdiction over this matter and should dismiss it.

Conclusion

Accordingly, for all of the foregoing reasons, this Court should dismiss this matter for lack of appellate jurisdiction.

Respectfully submitted,

/s/ John M. Reeves

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed with the Court's electronic filing system, to be served on all counsel of record via the same ECF system, on **October 9, 2025**. The undersigned further certifies that, pursuant to Rule 55.03(a), he has signed and retained the original of the foregoing and this certificate.

/s/ John M. Reeves