

Circuit Court for Harford County
Case No. 12-C-04-001554

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2477

September Term, 2017

SAMUEL A. M. COLLINGS

v.

LAN WANG

Wright,
Graeff,
Sharer, Frederick J.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: October 29, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Appellant, Samuel A. M. Collings, and appellee, Lan Wang, have two children. They divorced in 2005, and Mr. Collings was granted sole legal and physical custody. A petition to modify custody was filed in 2013, and the court's ruling on that petition remains pending.

Mr. Collings appeals an Order of Referral for Facilitated Visitation issued by the Circuit Court for Harford County on January 11, 2018, which provided that Ms. Wang would have facilitated visitation with the parties' two children.¹ At the time the January 2018 order was issued, one child, Son, was 15 years old, and the other, Daughter, was 18 years old.

On appeal, appellant presents the following question for this Court's review, which we have rephrased slightly, as follows:

Did the circuit court err by exceeding its jurisdiction when it issued a visitation order for two individuals, one of whom was over 18 years old at the time the visitation order was issued?

For the reasons set forth below, we shall dismiss the appeal.

DISCUSSION

I.

Before addressing the merits of this case, we must first determine whether this appeal is properly before this Court. Appellate review generally is authorized only where

¹ This was the third Order of Referral for Facilitated Visitation issued after the 2013 petition to modify custody was filed. Mr. Collings appealed the 2016 Order of Referral for Facilitated Visitation, which was dismissed by this Court for reasons not reflected in the record. Mr. Collings also appealed the 2017 Order of Referral for Facilitated Visitation, which this Court dismissed because appellant failed to file a timely brief.

a final judgment has been entered. Md. Code (2013 Repl. Vol.) § 12-301 of the Courts and Judicial Proceedings Article (“CJP”). *Accord URS Corp. v. Fort Myer Constr. Corp.*, 452 Md. 48, 65 (2017) (“As a general rule, under Maryland law, litigants may appeal only from what is known as a ‘final judgment.’”). “To constitute a final judgment, a trial court’s ruling ‘must either decide and conclude the rights of the parties involved or deny a party the means to prosecute or defend rights and interests in the subject matter of the proceeding.’” *Md. Bd. of Physicians v. Geier*, 451 Md. 526, 545 (2017) (quoting *Harris v. State*, 420 Md. 300, 312 (2011)). A final judgment must “leave nothing more to be done in order to effectuate the court’s disposition of the matter.” *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989). If “‘appellate jurisdiction is lacking, the appellate court will dismiss the appeal on its own motion.’” *Schuele v. Case Handyman & Remodeling Servs., LLC*, 412 Md. 555, 565 (2010) (quoting *Gruber v. Gruber*, 369 Md. 540, 546 (2002)).

Here, the docket entries indicate that, on April 12, 2013, a Petition to Modify Custody was filed, which remains pending. The order at issue here did not resolve that matter, and therefore, it does not constitute a final judgment.

Mr. Collings appears to recognize this. In his Response to Clerk of Court[’]s Demand to Show Cause, he argued that the appeal was permitted under an exception to the final judgment rule, i.e., an interlocutory appeal permitted by CJP § 12-303(3)(x).

Section 12-303(3)(x) provides that a party may appeal from an interlocutory order “[d]epriving a parent, grandparent, or natural guardian of the care and custody of his child, or changing the terms of such an order.” That provision has been interpreted, in custody

cases, to focus on whether, and the extent to which, the “order changes the antecedent custody order,” *In re C.E.*, 456 Md. 209, 223 (2017) (quoting *In re Karl H.*, 394 Md. 402, 430 (2006)), or “significantly interfere[s] with [the] parent’s ability to carry out the obligations inherent in custody.” *Frase v. Barnhart*, 379 Md. 100, 118 (2003).

Here, the January 2018 order does not change the 2013 order granting Mr. Collings sole legal and physical custody of the children.² Nor did the order giving Ms. Wang visitation detrimentally affect Mr. Collings’ parental rights. Accordingly, CJP § 12-303(3)(x) does not provide for an appeal of this interlocutory order. *See Frase*, 379 Md. at 118 n. 8 (“We are aware of no reported appellate decisions in Maryland allowing an immediate appeal by a custodial parent from an interlocutory order permitting routine visitation by a non-custodial parent.”). This appeal, therefore, is not properly before us, and we shall dismiss it.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

² We do recognize, as do both parties, that, because Daughter is over 18 years of age, she is no longer a child. *See* Md. Code (2014 Repl. Vol.) § 1-103(a)-(b) of the General Provisions Article (defining an “adult” as an individual who is “at least 18 years old” and a “minor” as an “individual under the age of 18 years”). *See also Brodsky v. Brodsky*, 319 Md. 92, 100 (1990) (holding that a trial court may not modify a child support agreement after the child ceases to be a minor).