

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

KIMBERLY EDELSTEIN,	:	APPEAL NO. C-240279
	:	TRIAL NO. A-2401680
Plaintiff-Appellant,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY</i>
HAMILTON COUNTY JOB AND	:	
FAMILY SERVICES,	:	
	:	
HAMILTON COUNTY,	:	
	:	
BRIAN LEE,	:	
	:	
DAVE THOMAS,	:	
	:	
and	:	
	:	
COUNTY RISK SHARING	:	
AUTHORITY,	:	
	:	
Defendants-Appellees.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Pursuant to an action for divorce, the domestic relations court awarded custody of a couple’s minor child, S.E., to the father, Elliott Edelstein, on December 21, 2023, which the mother, Kimberly Edelstein, appealed on January 2, 2024, along with filing an emergency motion to stay, a motion for an injunction, and an emergency motion to seal. We dismissed Ms. Edelstein’s initial appeal for lack of a final and appealable

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order under R.C. 2505.02. Shortly after this court entered its dismissal, Ms. Edelstein filed yet another appeal regarding the custody order. That appeal remains pending.

In the December 21 order, the domestic relations court also held that Ms. Edelstein was required to pay child support. During the pendency of the original appeal, the domestic relations court entered a child support order (“CSO”) on January 9, 2024, ordering Ms. Edelstein to pay \$617.00 each month (which it later admitted was a miscalculation). Thereafter, the Hamilton County Department of Job and Family Services (“HCJFS”) opened a case for Ms. Edelstein’s child support matter. Unhappy with the execution of the CSO while an appeal was pending, Ms. Edelstein called HCJFS four times within two months disputing the validity of the CSO. During Ms. Edelstein’s first call to HCJFS, HCJFS informed her that its employees contacted the domestic relations court regarding the matter, and the court informed HCJFS that it was to execute the CSO.

Ms. Edelstein next spoke with appellee Brian Lee (senior legal counsel for HCJFS), and again argued that the CSO was void. These claims failed to resonate, notwithstanding her diligence in raising them. In the months following, portions of Ms. Edelstein’s paychecks were withheld, along with portions of her bonuses, as she continued to debate the validity of the CSO with HCJFS. During these exchanges, Ms. Edelstein learned that she owed arrearages. Eventually, Dave Thomas (HCJFS employee in the Child Support Enforcement Agency) held a hearing for Ms. Edelstein, but he ultimately found that the amount of Ms. Edelstein’s debt was correct, and he held so contrary to her belief that the CSO was void altogether. In an attempt to right these alleged wrongs, Ms. Edelstein filed several motions with the domestic relations court asking it to correct the CSO (some of which remain pending).

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Still unsatisfied with the situation, Ms. Edelstein filed a civil action with the general division of the court of common pleas (“trial court”). She asked the trial court for a temporary restraining order (“TRO”) to halt the enforcement of the CSO, and she asked that the decree of divorce be found void, which she believed would prompt a return of the funds she paid under the CSO. In this complaint, she alleged that the HCJFS employees (Mr. Lee and Mr. Thomas) acted in bad faith in enforcing the CSO, and therefore, HCJFS and Hamilton County were vicariously liable.

The trial court immediately considered, and denied, the TRO. At the same time, it dismissed the complaint under Civ.R. 12(H)(3), holding that it lacked subject matter jurisdiction over the matter. Ms. Edelstein now appeals to this court, asserting three assignments of error, which all essentially claim that the trial court erred in dismissing her complaint for a lack of subject matter jurisdiction (which also disposed of the TRO petition). After reviewing the record and relevant authorities, we overrule all three of her assignments of error and affirm the judgment of the trial court.

Appellate courts review “[a] trial court’s decision to dismiss for a lack of subject-matter jurisdiction” under a de novo standard, as such a dismissal “raises questions of law.” *DeSantis v. Estate of DeSantis*, 2023-Ohio-519, ¶ 9 (7th Dist.), quoting *In re Britt*, 2015-Ohio-1605, ¶ 19 (7th Dist.).

Ms. Edelstein repeatedly asserts that because there was a pending appeal, the domestic relations court lacked jurisdiction to enter the CSO, and therefore, she could collaterally attack the order before the trial court. However, domestic relations courts “retain[] exclusive jurisdiction over matters relating to the custody, care, and support of minor children.” *Khan v. Hughes*, 2015-Ohio-4502, ¶ 13 (8th Dist.), citing *Loetz v. Loetz*, 63 Ohio St.2d 1 (1980). That contrasts with a domestic relations court’s orders pertaining to divorce actions and the division of property, because in those instances

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“the exclusive jurisdiction [of the domestic relations court] is terminated” once all matters have been adjudicated, and it then enjoys concurrent jurisdiction with the court of common pleas, general division. *Id.*, quoting *Price v. Price*, 16 Ohio App.3d 93, 95-96 (8th Dist. 1984).

Therefore, Ms. Edelstein’s argument that the trial court had jurisdiction over her collateral attack on the domestic relations court’s CSO given its timing does not comport with the relevant case law (nor does she identify precedent that would support her position). Since the domestic relations court has exclusive jurisdiction over the issue of child support, the trial court properly dismissed the complaint because it could not exercise jurisdiction to modify the CSO or restrain its enforcement.

Furthermore, even if the trial court could exercise jurisdiction over the matter, Ms. Edelstein’s effort to collaterally attack the CSO would miss the mark because she did not name the relevant party to the previous judgment (Mr. Edelstein) when she filed the civil action with the trial court. Mr. Edelstein was the individual with the optimal interests to defend in this matter, as any modification of the CSO would affect him the most. Instead, Ms. Edelstein named HCJFS, its employees, Hamilton County, and the County Risk Sharing Authority. They were not parties to the previous action, nor did they have the same interests as Mr. Edelstein in defending against an attack on the CSO. They were simply enforcing the CSO.

For the reasons stated above, the trial court properly held that it lacked subject matter jurisdiction, and therefore, was correct in dismissing the action. This finding resolves all three of Ms. Edelstein’s assignments of error. Based on the foregoing analysis, we overrule all three of the assignments of error and accordingly affirm the judgment of the trial court.

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The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

BERGERON, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on 11/15/2024 per order of the court.

By: _____
Administrative Judge