

Court of Appeals, State of Michigan

ORDER

Department of Environmental Quality v Emil J Adams

Docket No. 328026

LC No. 11-000638-CE

Michael J. Talbot, Chief Judge, acting under MCR 7.203(F)(1), orders:

The claim of appeal is DISMISSED for lack of jurisdiction because the May 27, 2015 order is not a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A). That order is not a final order under MCR 7.202(6)(a)(iv) because it is not a postjudgment order. Particularly, MCR 2.604(A) provides that an order “adjudicating fewer than all the claims, or the rights and liabilities of fewer than all the parties, does not terminate the action as to any of the claims or parties, and the order is subject to revision before entry of final judgment adjudicating all the claims and the rights and liabilities of all the parties.” Thus, because the claims by the principal plaintiff against appellant were not disposed when the trial court granted summary disposition in favor of the third-party defendants, that grant of summary disposition cannot reasonably be considered a “judgment” as to the claims against the third-party defendants since, by operation of MCR 2.604(A), the grant of summary disposition did not actually terminate those claims. At this time, appellant may seek to appeal the May 27, 2015 order by filing a delayed application for leave to appeal under MCR 7.205(G).

The motion to extend time to file appellant’s brief is DENIED as moot.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 17 2015

Date

Chief Clerk