

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**George J. Neilan, Petitioner Below,
Petitioner**

v.) No. 14-1340 (Nicholas County 14-D-51)

**Charlotte Y. Yeager, Respondent Below,
Respondent**

FILED

March 12, 2015

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner, George J. Neilan, by counsel Lyne Ranson, appeals an Order of the Circuit Court of Nicholas County, West Virginia, entered on November 19, 2014, refusing his petition for appeal from an order of the family court entered on October 17, 2014, as interlocutory. The October 17, 2014, family court order denied petitioner's motion *in limine* to exclude any evidence of assets of the Yeager Family Trust during the final hearing in the matter. The notice of appeal was filed on December 19, 2014. Thereafter, on December 31, 2014, respondent, by counsel James M. Cagle, filed a motion to dismiss the appeal. On January 22, 2015, a scheduling order issued, specifically stating that the appeal is docketed on the sole issue of whether the circuit court erred in its finding and holding that the October 17, 2014, order of the family court is an evidentiary order and not a final appealable order and that none of the evidentiary issues will be considered in the appeal. Therefore, based upon that clarification of the issue to be included on appeal, the motion to dismiss was refused. On February 24, 2015, counsel for respondent filed a motion to expedite. The Court does hereby grant the motion to expedite.

Having carefully reviewed the notice of appeal, the order of the family court, and the decision of the circuit court, the Court is of the opinion that the decisional process would not be significantly aided by briefing or oral argument. The Court therefore finds that this matter is mature for consideration and upon application of the law, determines that a memorandum decision summarily affirming the circuit court in this instance is appropriate under Rule 21 of the Rules of Appellate Procedure. In reviewing an order entered by a circuit court judge upon a review of, or upon a refusal to review, a final order of a family court judge, we review questions of law *de novo*. *Carr v. Hancock*, 216 W.Va. 474, 607 S.E.2d 803 (2004). The Court finds no substantial question of law and affirms the decision of the circuit court.

In the order dismissing the action, the circuit court noted that pursuant to West Virginia Code Section 51-2A-14(a), the order of the family court is an evidentiary order not final for purposes of appeal. Despite the family court's attempt to couch its order as final by including the statement "[T]his is a final order" and including the procedure for appellate review, the circuit court correctly determined that the order was an evidentiary ruling and not subject to appellate review.

Accordingly, the order of the Circuit Court of Nicholas County is affirmed, and this case is dismissed.

Affirmed.

ISSUED: March 12, 2015

CONCURRED IN BY:

Chief Justice Margaret L. Workman

Justice Robin Jean Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Allen Loughry II