

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

JAMES ALLEN COLDIRON

Appellant,

v.

NICOLE V. BRYCE

Appellee.

CASE NO.: CVA1 07-71
LOWER COURT CASE NO.:
2007-SC-2976-O

Appeal from the Small Claims Court,
in and for Orange County, Florida.

James Allen Coldiron, pro se.

No appearance for Appellee.

Before ADAMS, WATTLES, and LAUTEN, JJ.

FINAL ORDER AFFIRMING TRIAL COURT

James Allen Coldiron (“Appellant”) appeals the lower court’s order dated August 24, 2007, denying his motion to reopen his complaint for replevin. This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(1)(A). We dispense with oral argument. Fla. R. App. P. 9.320.

Appellant filed a complaint for replevin against Nicole V. Bryce (“Appellee”) on March 15, 2007, seeking the recovery of various personal and household goods from the possession of the Appellee. The lower court heard this case on May 1, 2007 at which time the Appellee appeared but the Appellant failed to appear. On May 2, 2007, the lower court judge issued an order reflecting the dismissal of the Appellant’s complaint. After the order of dismissal, a fairly

cut and dry case became clogged with paperwork. Numerous notices, additional pleadings, and complaints were filed by the Appellant (or on his behalf) after the order of dismissal. Finally, on September 14, 2007, the Appellant filed his Notice of Appeal with this Court.

This appeal comes to this Court from an involuntary dismissal without prejudice for want of prosecution. As such the trial court's order constituted an appealable final order under Florida Rule of Appellate Procedure 9.030(c)(1)(A). *Elegele v. Halbert*, 890 So. 2d 1272, 1273 n.2 (Fla. 5th DCA 2005) (“A dismissal for lack of prosecution is a final order for purposes of appeal.”). Pursuant to Florida Rule of Appellate Procedure 9.110(b), an appeal from a final order in a civil case must be filed within thirty (30) days of rendition of the final order. In this instance, the appeal was not filed until approximately four months after the rendition of the trial court’s order of dismissal. The Appellant’s appeal was therefore not timely filed and the ruling of the trial court should be affirmed.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the Trial Court’s “Order of Dismissal,” dated May 2, 2007, is **AFFIRMED**.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida on this
22 day of _____ July _____, 2009.

_____/s/_____

GAIL A. ADAMS

Circuit Judge

_____/s/_____

BOB WATTLES

Circuit Judge

_____/s/_____

FREDERICK J. LAUTEN

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished via U.S. mail on this 22 day of July , 2009, to the following:

James A. Coldiron, 15840 State Rd., Lot 198, Clermont, FL 34711; and **Nicole V. Bryce**, 2901 Hambleton Ave., Orlando, FL 32810.

_____/s/_____
Judicial Assistant