

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

IN RE: G.C. : APPEAL NO. C-170149
 : TRIAL NO. 16-8177X
 :
 :
 : *JUDGMENT ENTRY.*

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); 1st Dist. Loc.R. 11.1.1.

G.C. appeals from an order of the Hamilton County Juvenile Court. The court adjudicated G.C. delinquent for committing aggravated robbery with firearm specifications, and then committed him to the Department of Youth Services (“DYS”) and ordered him to pay “restitution,” but did not include an amount. G.C. raises three assignments of error in this appeal. We do not reach the merits of the appeal, however, because we must dismiss it sua sponte for lack of a final appealable order.

The court of appeals does not have jurisdiction over orders that are not final and appealable. Article IV, Section 3(B)(2), Ohio Constitution; *see* R.C. 2953.02. A finding of delinquency by the juvenile court without a disposition is not a final, appealable order. *In re Sekulich*, 65 Ohio St.2d 13, 14, 417 N.E.2d 1014 (1981). A judgment that imposes restitution as part of the sentence but leaves the amount of restitution unresolved is not a final, appealable order if the record indicates that the trial court intended to take further action to determine the amount of that restitution. *See In re Holmes*, 70 Ohio App.2d 75, 434 N.E.2d 747 (1st Dist.1980). Conversely, where the trial court fails to include the

amount of restitution in the sentencing entry, but the record does not suggest that the court contemplated taking further action to determine that amount, or the record indicates that the court ordered the probation department to determine the amount of restitution, the order is final and appealable, but erroneous. *See State v. Lowe*, 1st Dist. Hamilton No. C-130048, 2013-Ohio-4224, citing *State v. Purnell*, 171 Ohio App.3d 446, 2006-Ohio-6160, 871 N.E.2d 613 (1st Dist.), and *State v. Wilson*, 1st Dist. Hamilton No. C-061000, 2007-Ohio-6339.

Here, G.C. was adjudicated delinquent and committed to the DYS. The trial court also ordered him to pay restitution, but did not include an amount in its entry. The court did not include an amount in its entry because at the sentencing hearing the prosecutor told the court that the dollar amount noted in the case summary sheet may not have been accurate. In response to the state's statement that it did not have an updated amount, the trial court stated, "I will order restitution and allow the number, you know, to be determined if that is an updated amount."

The transcript of proceedings in this case indicates that the trial court intended to have a hearing on restitution to determine the amount, as the state was not prepared at the dispositional hearing to go forward. Because the record indicates that trial court intended to take further action to determine the amount of the restitution, the order appealed from was not final and appealable and cannot be appealed at this time. *See In re Holmes* at 76-77. This appeal is accordingly dismissed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., CUNNINGHAM and DETERS, J.J.

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on November 1, 2017

per order of the court _____.
Presiding Judge