

Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN RE THE MATTER OF THE )  
PATERNITY OF X.K.T., )

J.L.H., )  
Appellant, )

vs. )

B.L.T., )  
Appellee. )

No. 67A01-1005-JP-212

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APPEAL FROM THE PUTNAM CIRCUIT COURT  
The Honorable Diana L. LaViolette, Senior Judge  
Cause No. 67C01-0904-JP-13

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**March 10, 2011**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

J.L.H. (“Father”) appeals from the trial court’s order in contempt entered against him for failure to pay child support and argues: 1) that the trial court’s failure to advise him of his right to appointed counsel before the contempt hearing, in which the court was considering incarceration as a possible sanction, was a violation of Father’s due process rights, and 2) that the trial court’s contempt finding was not supported by sufficient evidence. The State concedes that the trial court’s failure to advise Father of his right to appointed counsel was a due process violation, but fails to address Father’s sufficiency argument. Concluding that the order from which Father appeals is neither a final judgment nor an appealable interlocutory order, we dismiss this appeal *sua sponte*.

### **Facts and Procedural History**

On September 24, 2009, paternity of X.K.T. was established in Father, and Father was ordered to pay child support in the amount of sixty-four dollars per week. On January 12, 2010, the State filed an “Affidavit for Order to Show Cause” alleging that Father was \$2,496.00 in arrears on the support order, \$1,721.00 of which was owed to the State. The trial court held a contempt hearing on April 20, 2010, at which Father appeared without counsel. On April 22, 2010, the trial court issued an order taking “the matter of sanction for [Father’s] Contempt of Court under advisement” and ordering Father to appear at a review hearing on June 22, 2010. Appellant’s App. pp. 5-6. Father filed a notice of appeal on May 13, 2010, and this appeal ensued. Due to the prosecution of this appeal, the June 22 hearing was not held and, consequently, sanctions for Father’s contempt were not imposed.

## Discussion and Decision

This court has jurisdiction in all appeals from final judgments. Ind. Appellate Rule 5(A). A “final judgment” is one which “disposes of all claims as to all parties[.]” App. R. 2(H)(1). Whether an order is a final judgment governs this court’s subject matter jurisdiction. Georgos v. Jackson, 790 N.E.2d 448, 451 (Ind. 2003). The lack of appellate subject matter jurisdiction may be raised at any time, and where the parties do not raise the issue, this court may consider it *sua sponte*. Id. In contempt cases, there is no appealable final judgment until the court has proceeded to attach and punish the defendant for contempt by fine or imprisonment. Azhar v. State, 712 N.E.2d 1018, 1020 (Ind. Ct. App. 1999). Here, because the trial court never imposed a sanction for Father’s contempt, there was no final judgment.

Because the trial court’s contempt order was not a final judgment, Father cannot appeal unless the order is an appealable interlocutory order. See Bacon v. Bacon, 877 N.E.2d 801, 804 (Ind. Ct. App. 2007), trans. denied. “An interlocutory order is one made before a final hearing on the merits and requires something to be done or observed but does not determine the entire controversy.” Id. This court has “jurisdiction over appeals of interlocutory orders under Rule 14[.]” App. R. 5(B).

Under Appellate Rule 14(A), certain interlocutory orders may be appealed as a matter of right. Such appeals must be expressly authorized, and that authorization is to be strictly construed. Bacon, 877 N.E.2d at 804. None of the grounds for interlocutory appeals set forth in Appellate Rule 14(A) apply to the case before us. Therefore, Father

is not entitled to an interlocutory appeal as a matter of right. Additionally, under Appellate Rule 14(B), interlocutory orders may be appealed “if the trial court certifies its order and the Court of Appeals accepts jurisdiction over the appeal.” App. R. 14(B). However, no such certification and acceptance took place here. Thus, the trial court’s contempt order is not appealable under Appellate Rule 14(B).

For all of these reasons, we conclude that the order from which Father appeals is neither a final judgment nor an appealable interlocutory order. This court is therefore without subject matter jurisdiction to entertain Father’s appeal.

Dismissed.

FRIEDLANDER, J., and MAY, J., concur.