

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 8th day of February, 2018.

Timothy M. Barrett, Appellant,

against Record No. 170022
Circuit Court No. CL15000436-00

Valerie Jill Rhudy Minor, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of the City of Bristol.

Upon consideration of the record, pleadings and briefs, and argument of counsel, the Court is of opinion that there is error in the trial court's judgment and, for the reasons stated below, we will reverse the judgment of the trial court.

Timothy M. Barrett filed a complaint against Valerie Jill Rhudy Minor challenging certain child custody orders. Minor filed a demurrer and motion for sanctions. On April 14, 2016, the trial court entered an order granting Minor's demurrer and dismissed all counts of the complaint with prejudice ("Final Order"). The trial court did not rule on Minor's motion for sanctions but noted in its Final Order that it would hear arguments on the motion for sanctions on July 6, 2016. No other order was entered within 21 days after the April 14 order modifying, suspending or vacating that final order. On November 2, 2016, the trial court entered an order granting Minor's motion for sanctions. In this appeal, Barrett asserts that the trial court's November 2, 2016 order was void *ab initio* because the court entered it in violation of Rule 1:1,

which prohibits a court from exercising its jurisdiction upon expiration of 21 days after entry of a final order.

Rule 1:1 provides in relevant part that “[a]ll final judgments, orders, and decrees, . . . shall remain under the control of the trial court and subject to be modified, vacated, or suspended for twenty-one days after the date of entry, and no longer.” The trial court’s November 2, 2016 order granting Minor’s motion for sanctions is a nullity and void *ab initio* because it was entered more than 21 days after entry of its April 14, 2016 Final Order in violation of Rule 1:1. *See James v. James*, 263 Va. 474, 484, 562 S.E.2d 133, 139 (2002) (holding trial court lost jurisdiction after expiration of the twenty-one day period of Rule 1:1).

Accordingly, we will vacate the November 2, 2016 judgment order and enter final judgment for Barrett on the sanction application.

This order shall be certified to the Circuit Court of the City of Bristol.

A Copy,

Teste:

A handwritten signature in black ink, appearing to read "Paul L. Hamish". The signature is written in a cursive, slightly slanted style.

Clerk