

VIRGINIA:

In the Court of Appeals of Virginia on Friday *the* 25th
day of March, 2005.

Wesley C. Smith,

Appellant,

against

Record No. 2322-04-4

Circuit Court No. CH53360

Cheri Smith,

Appellee.

From the Circuit Court of Prince William County

This appeal involves a discovery dispute that arose in a divorce proceeding between Wesley C. Smith and his wife, Cheri Smith. In the divorce action, Wesley C. Smith obtained a subpoena *duces tecum* from the circuit court for various documents from Science Applications International Corporation (SAIC). SAIC successfully sought to quash the subpoena *duces tecum*. Wesley C. Smith now appeals the order of the circuit court granting SAIC's motion to quash.

Code § 17.1-405, provides "[a]ny aggrieved party may appeal" to this Court from "any final judgment, order, or decree of a circuit court" involving divorce or other domestic relations matters. That statute further defines this Court's jurisdiction to include "[a]ny interlocutory decree or order . . . (i) granting, dissolving, or denying an injunction or (ii) adjudicating the principles of a cause." *Id.*

The circuit court order from which Wesley C. Smith appeals is not a final order. "A final decision is one 'which disposes of the whole subject, gives all the relief that is contemplated and leaves nothing to be done by the court.'" Hoyle v. Virginia Employment Commission, 24 Va. App. 533, 537, 484 S.E.2d 132, 133 (1997) (quoting Southwest Va. Hosps. v. Lipps, 193 Va. 191, 193, 68 S.E.2d 82, 83 (1951) (citation omitted)).

"Ordinarily, a trial court's discovery orders are not subject to review on direct appeal because they are not final within the contemplation of Code § [17.1-405]." America Online v. Anonymous

