

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

LAMAR T. ADAMS
APPELLANT

CASE NO. 11 CV 1960

VS.

MAGISTRATE TIMOTHY G. WELSH

OHIO DEPARTMENT OF
JOB AND FAMILY SERVICES,
ET AL APPELLEES

MAGISTRATE'S DECISION
FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This cause came on for hearing this 31st day of January, 2012 upon the Motion of Appellee, Director, Ohio Department of Job and Family Services to Dismiss for Failure to Prosecute. Appellant has not opposed this Motion.

Appellant, appearing in this matter pro se, filed his Notice of Appeal on June 15, 2011. In doing so, he provided this Court with a mailing address of 451 Ferndale Avenue, Youngstown, Ohio 44511. On October 25, 2011, this Court executed and filed the Motion, Briefing, and Trial or Hearing Schedule requiring Appellee to file his brief upon the merits on or before December 16, 2011. According to the docket of this Court, a copy of the Judgment Entry of October 25, 2011 was mailed to the parties by Regular U.S. Mail. The docket further indicates that on November 3, 2011 there was a failure of service of the Judgment Entry of October 25, 2011 upon Appellant as "not deliverable as addressed; unable to forward".

Furthermore, a copy of the notice of non-oral hearing upon the Motion to Dismiss filed by Appellee was likewise issued by the Mahoning County Assignment Office to the parties on January 10, 2012. Appellant has failed to file his brief upon the merits as previously ordered by this Court or respond to Appellee's Motion to Dismiss.

Pro se litigants are held to the same standard as litigants who are represented by counsel. Sabouri vs. Ohio Dept. of Job & Family Servs. (2001), 145 Ohio App. 3d 651,

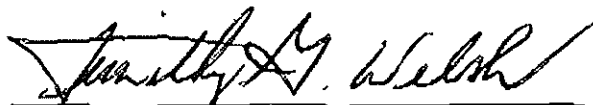


654. The Clerk of Courts issued the Judgment Entry of October 25, 2011 and the Assignment Office issued the Notice of Non-Oral Hearing to Appellant by regular mail at his last known address. It was and remains the responsibility of the Appellant to notify this Court of a change of address to ensure that he will receive copies of all pleadings, motions and memoranda filed by opposing counsel, as well as Judgment Entries issued by the Court and notices of Court hearings. Clearly, Appellant has failed to notify the Court of the apparent change in his address. However, his failure to do so does not relieve him of his responsibility to comply with this Court's Order and prosecute his claim.

Based upon the foregoing, the Motion of Appellee, Director, Ohio Department of Job and Family Services to Dismiss for failure to prosecute is sustained. These proceedings are dismissed with prejudice at Appellant's costs pursuant to Civ. R. 41(B)(1).

This is an appealable Order and the Clerk of Court shall serve copies of this decision upon all counsel and unrepresented parties within three (3) days of the filing hereof.

2-2-12
DATE


MAGISTRATE TIMOTHY G. WELSH

The parties shall have fourteen (14) days from the filing of this decision to file written objections with the Clerk of this Court. Any such objections shall be served upon all parties to this action and a copy must be provided to the Court. A party shall not assign as error on appeal on Court's adoption of any factual finding or legal conclusion of law under Civ. R. 53 (D)(3)(a)(ii), unless the party timely and specifically objects to the factual finding or legal conclusion as required by Civ. R. 53 (D)(3)(b). Any party may request the magistrate to provide written findings of fact and conclusions of law. In accordance with Civ. R. 52, this request must be made within seven (7) days from the date of filing of this decision.