

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO**

**EDWARD HART,**

**Appellant**

**CASE NO. 12CVF-02-1612**

**JUDGE SHEWARD**

**vs.**

**OHIO DEPARTMENT OF JOB  
AND FAMILY SERVICES,**

**Appellee**

**DECISION AND ENTRY**  
**DISMISSING APPEAL AND REMANDING MATTER**  
**TO THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES**

**SHEWARD, JUDGE**

This matter arises out of an appeal pursuant to R.C. §119.12. The relevant facts and procedural history are as follows.

Facts:

Appellant claimed that he was disabled due to seizures, depression, asthma, knee pain, liver disease and a traumatic brain injury. The Disability Determination Area (DDA) held there was insufficient evidence regarding the Appellant's physical injuries and that his bipolar disorder would not keep him from working. The Appellant appealed that determination and the matter was submitted to the Bureau of State Hearings. The administrative appeal was heard on November 3, 2011.

After the November hearing, the Hearing Officer did not make a determination that the Appellant was disabled. It appears that at the hearing the Appellant submitted a sizable amount of new medical records to support his claim. Those documents were either created after the DDA hearing and/or were never presented at the DDA hearing.

Therefore, the Hearing Officer felt that Appellant should be given a chance to present to the DDA the new documents presented during the administrative appeal.

The Hearing Officer held that the Appellant should be returned to his prior status and that the matter should be remanded to the DDA for a quick decision. Appellant appealed, stating that instead of sending the matter back, the hearing officer should have held that he was disabled. That appeal was handled by the Administrative Appeal Section. The Administrative Appeal Section found that the Hearing Officer's decision was correct; i.e., the matter should be remanded for further review by the DDA.

Legal Analysis:

Subject-matter jurisdiction is a court's power over a type of case. *In re Weller*, Tenth Dist. App. No. 05AP-678, 2006-Ohio-3015, at ¶13. Subject-matter jurisdiction does not relate to the rights of the parties, but to the power of the court. *Id.* Parties cannot, by consent or agreement, confer subject-matter jurisdiction on a court where subject-matter jurisdiction is otherwise lacking. *Id.* at ¶14. Despite the fact that the parties did not raise the issue, this Court must review whether it has jurisdiction to decide this matter.

In this administrative appeal, the Court is charged with determining whether an agency's order is supported by reliable, probative and substantial evidence and is in accordance with law. R.C. 119.12. The Court's review is limited to that which was on record before the agency. *In the Matter of Turner Nursing Home* (Tenth App. Dist. 1987) Case No. 86AP-767, 1987 Ohio App. LEXIS 5729, p. 4; *Williams v. Liquor Control Comm.* (Tenth Dist. App.), 2008-Ohio-3767, ¶21. There appears to be no final order in this case.

Here the certified record showed that the Hearing Officer issued a Decision that remanded the matter to the DDA for further deliberation. The Decision did not make a determination one way or another concerning the ultimate claim of the Appellant. Please note the following language from the Decision:<sup>1</sup>

**Based on the evidence, testimony, and applicable policies, the hearing officer recommended that appeals 1710483 (DFA) and 1710484 (Medicaid) should be sustained. To comply, the Agency should (A) return the DFA and disability Medicaid to a pending status within CRIS E based on the application date of 03/18/2009. Then, the Agency should (B) request a copy of this state hearing record from the ODJFS: Bureau of State Hearings, (C) submit exhibits 5, 6, 7, 8, 9, 10, 11 (approximately 69 pages) to the DDA with a copy of this decision and a request for an expedited disability determination.**

The clear import of the Hearing Officer's Decision was that the matter was to be remanded and the DDA was to review the Appellant's claims in light of the new evidence. When the Appellant filed his administrative appeal of the Hearing Officer's November 9, 2011 Decision, that Decision was upheld by the Administrative Appeal Section on January 10, 2012. Having affirmed the Hearing Officer's Decision, the matter would/should have been remanded to the DDA. However, the Appellant commenced this Appeal.

The above determination by the Administrative Appeal Section was not a final adjudication subject to this Court's review. This Court is not free to speculate as to the ultimate outcome of the administrative process. Please note the following language from the R.C. §119.12:

§ 119.12. Appeal by party adversely affected - notice - record - hearing - judgment

Any party adversely affected by any order of an agency issued pursuant to an **adjudication denying** an applicant admission to an examination, or **denying the issuance** or renewal of a license or registration of a licensee, or **revoking** or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code may appeal . . . (emphasis added)

<sup>1</sup> The following darker text is a 'copy image' from the certified record.

The following is from R.C. §119.01(D):

(D) "Adjudication" means the determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person, but does not include the issuance of a license in response to an application with respect to which no question is raised, nor other acts of a ministerial nature.

There has not been a final decision by the highest authority finding that the Appellant is disabled or not disabled. There is no right to appeal at this time.

For the foregoing reasons, this appeal is dismissed and the matter is remanded to the Appellee for further proceedings consistent with the Decision of November 9, 2011 as affirmed on January 10, 2012.

Costs to Appellant.

Pursuant to Civil Rule 58, the Clerk of Court shall serve upon all parties notice of this judgment and its date of entry.

**THIS IS A FINAL AND APPEALABLE ORDER**

Copies to:

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Franklin County Court of Common Pleas

**Date:** 05-25-2012  
**Case Title:** EDWARD HART -VS- OHIO STATE DEPARTMENT JOB FAMILY SERVICE  
**Case Number:** 12CV001612  
**Type:** DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Richard S. Sheward". The signature is written over a circular blue ink seal. The seal contains the text "FRANKLIN COUNTY OHIO" around the top and "ALL THINGS ARE" around the bottom.

Judge Richard S. Sheward

Court Disposition

Case Number: 12CV001612

Case Style: EDWARD HART -VS- OHIO STATE DEPARTMENT JOB FAMILY SERVICE

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0016122012-05-0999980000  
Document Title: 05-09-2012-REPLY BRIEF  
Disposition: MOTION DENIED
  
2. Motion CMS Document Id: 12CV0016122012-03-2099980000  
Document Title: 03-20-2012-MEMO IN OPPOSITION  
Disposition: MOTION GRANTED