

COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

ROBERT E. GARCIA, :
 :
 Appellant, : CASE NO. 12 CVF 10 2901
 :
 -vs- : JUDGE KIMBERLY COCROFT
 :
 :
 AMERICAN RED CROSS :
 BLOOD SERVICES, :
 :
 Appellees. :

DECISION AND ENTRY

COCROFT, JUDGE

This matter is before this Court on appeal pursuant to R.C. § 4141.282(H), ostensibly from a January 27, 2012 decision of the Unemployment Compensation Review Commission (“Review Commission”). The appellant chose to represent himself in this case. Ohio law is clear that *pro se* litigants are to be held to the same standard as an attorney. The *pro se* litigant is to be treated the same as one trained in the law as far as the requirement to follow procedural law and adhere to court rules. If the court treats a *pro se* litigant differently, the court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel. See *Justice v. Lutheran Social Servs.*, 1993 Ohio App. LEXIS 2029.

R.C. 4141.282(D) provides as follows:

The commission shall provide on its final decision the names and addresses of all interested parties. The appellant shall name all interested parties as appellees in the notice of appeal. **The director of job and family services is always an interested party and shall be named as an appellee in the notice of appeal.** [Emphasis added].

Upon review, the appellant did not comply with R.C. 4141.282(D). The appellant failed to name the Director of Job and Family Services as an appellee in the notice of appeal. See

Sydenstricker v. Donato's Pizzeria, LLC, 2010 Ohio 2953. Filing an improper notice of appeal divests the court of jurisdiction. Because the appellant only named his employer as an appellee, he did not comply with the mandates as set forth in R.C. 4141.282.¹

DECISION

Accordingly, this Court **DISMISSES** this appeal *sua sponte* since it does not have jurisdiction to decide this case on its merits.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

(B) Notice of filing. When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY. THIS IS A FINAL APPEALABLE ORDER. Pursuant to Civil Rule 58, the Clerk of Court shall serve notice upon all parties of this judgment and its date of entry.

IT IS SO ORDERED.

¹ Counsel for the Director of the Ohio Department of Job and Family Services (ODJFS) filed a "Motion to Dismiss" on April 27, 2012. However, ODJFS did not request to intervene, for a limited purpose, in this lawsuit. Thus, this Court could not render a decision on a motion filed by an entity that is not a party to this lawsuit. Likewise, the appellant's attempt to amend the notice of appeal was invalid because it was not filed within the appeal time period.

Copies to:

Robert Garcia
194 Midland Avenue
Columbus, Ohio 43223
Pro se Appellant

American Red Cross Blood Services
600 A Forest Point Circle
Charlotte, North Carolina 28273

Michael DeWine, Esq.
Yvonne Tertel, Esq.
Office of the Attorney General
Health and Human Services Section
Unemployment Compensation Unit
30 E. Broad Street, 26th floor
Columbus, OH 43215-3400
Counsel for Non-Party Director, Ohio Department of Job and Family Services

Franklin County Court of Common Pleas

Date: 06-26-2012

Case Title: ROBERT E GARCIA -VS- AMERICAN RED CROSS

Case Number: 12CV002901

Type: MAGISTRATE DECISION

It Is So Ordered.

A handwritten signature in black ink is written over a circular blue seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "1800" and "ALL THINGS ARE" at the bottom. The signature is a cursive-style name that appears to be "K. Cocroft".

/s/ Judge Kimberly Cocroft

Court Disposition

Case Number: 12CV002901

Case Style: ROBERT E GARCIA -VS- AMERICAN RED CROSS

Final Appealable Order: Yes