

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

Jeffrey Gould, :
Appellant, : Case No. 12CV 9467
v. :
Ohio Department of Education, : Judge Lynch
Appellee. :

**DECISION AND ENTRY GRANTING MOTION OF APPELLEE
TO DENY APPELLANT'S MOTION FOR DELAYED APPEAL
AND TO DISMISS APPELLANT'S APPEAL**

and

**DECISION AND ENTRY DENYING MOTION OF APPELLANT
FOR DELAYED APPEAL**

and

**DECISION AND ENTRY FINDING MOOT MOTION OF APPELLEE
FOR AN EXTENSION OF TIME TO CERTIFY THE RECORD**

LYNCH, J.

This matter is before the Court upon the motion of Appellee to deny Appellant's motion seeking leave to file a delayed appeal and requesting that the appeal be dismissed; the motion of Appellee for an extension of time to certify the record; and the motion of Appellant for (leave to) file a delayed appeal. Appellee has opposed Appellant's motion for leave to file a delayed appeal within its own motion to deny Appellant's motion for delayed appeal. Appellant has not opposed either of Appellee's motions.

In Appellee's motion to deny Appellant's motion for leave to file a delayed appeal, it argues that this case must be dismissed because this Court lacks subject matter

jurisdiction over this ostensible R.C. appeal. More specifically, Appellee argues that under R.C. 119.12, Franklin County is not the proper court for Appellant's appeal and that Appellant's failure to perfect his appeal in the proper county (i.e., Summit County) is fatally defective to his appeal. Appellee further argues that, contrary to Appellant's own assertions in his motion for leave, the Judgment Entry rendered by the Summit County Court of Common Pleas does not find that Appellant must adjudicate his claims in Franklin County.¹ Moreover, Appellee asserts, even if Franklin County were the proper court for the adjudication of Appellant's claims, he still cannot perfect his appeal under R.C. 119.12 because it is untimely, and the time limitation set forth in that statute deprives this Court of jurisdiction in cases in which the time limitation is not met.

Upon consideration, the Court is in agreement with the position of Appellee. Accordingly, the Court **GRANTS** Appellee's motion to deny Appellant's motion for delayed appeal, **GRANTS** Appellee's motion to dismiss this appeal, **DENIES** Appellant's motion for delayed appeal, and finds **MOOT** Appellee's motion for an extension of time to certify the record. This matter is therefore **DISMISSED**, with prejudice, for lack of subject matter jurisdiction. This is a final appealable order and there is no just cause for delay.

IT IS SO ORDERED.

Electronic copies to:

Kirk A. Migdal, Esq.
Counsel for Appellant

Holly E. LeClair Welch, Esq.
Counsel for Appellee

¹ The Court further notes that although Appellant in his motion for delayed appeal references a February 23, 2012 letter from the State Board of Education that is being attached as "Exhibit A", no such letter appears to have been filed along with his motion.

Franklin County Court of Common Pleas

Date: 09-10-2012
Case Title: JEFFREY GOULD -VS- OHIO STATE DEPARTMENT
EDUCATION
Case Number: 12CV009467
Type: DECISION/ENTRY

It Is So Ordered.


The image shows a handwritten signature in black ink that reads "Julie M. Lynch". The signature is written in a cursive style. To the right of the signature is a circular blue ink stamp. The stamp contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" around the middle, and "ALL THINGS ARE POSSIBLE" at the bottom.

/s/ Judge Julie M. Lynch

Court Disposition

Case Number: 12CV009467

Case Style: JEFFREY GOULD -VS- OHIO STATE DEPARTMENT EDUCATION

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0094672012-07-2699940000
Document Title: 07-26-2012-MOTION
Disposition: MOTION DENIED
2. Motion CMS Document Id: 12CV0094672012-08-1699970000
Document Title: 08-16-2012-MOTION TO EXTEND TIME
Disposition: MOTION IS MOOT
3. Motion CMS Document Id: 12CV0094672012-08-1699940000
Document Title: 08-16-2012-MOTION TO DISMISS
Disposition: MOTION GRANTED