

FILED

IN THE COMMON PLEAS COURT OF FAIRFIELD COUNTY, OHIO

ATTORNEY GENERAL'S OFFICE

IDA JEAN NORTH, 2016 SEP 22 PM 3:21

SEP 26 2016

Appellant,

BRANDEN C. MEYER
CLERK OF COURTS
FAIRFIELD CO. OHIO

Case No. 16 CV 356

EXECUTIVE AGENCIES

v.

Judge Berens

OHIO DEPARTMENT OF PUBLIC :
SAFETY, BUREAU OF MOTOR :
VEHICLES, :

Entry Regarding Appellee's Motion
to Dismiss

Appellee. :

This matter is before the Court upon the Ohio Department of Public Safety, Bureau of Motor Vehicles' ("Appellee") Motion to Dismiss for Lack of Subject Matter Jurisdiction filed August 11, 2016. A non-oral hearing on the Motion was scheduled for September 12, 2016. Ida Jean North ("Appellant") did not respond. Based on the foregoing the Court **GRANTS** Plaintiff's Motion.

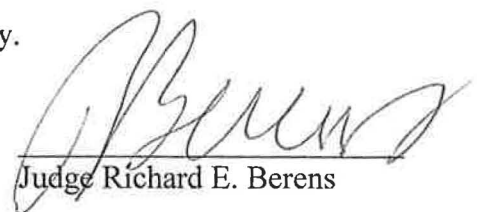
Generally, "...courts are limited to the jurisdiction granted to them by statute, or by rules promulgated pursuant to statute." *Loomis v. Prestige Builders*, 5th Dist. Delaware No. 98 CA 27, 1999 WL 3884. A statute conferring the right to appeal can be perfected only in the mode prescribed by that statute. *Ramsdell v. Ohio Civ. Rights Comm.* (1990), 56 Ohio St.3d 24, 27, 563 N.E.2d 285. To file an appeal from the Bureau of Motor Vehicles' order, an adversely affected party, shall: (1) file a notice of appeal with the agency setting for the order appealed from and (2) state that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. Ohio Revised Code 119.12(A)(1); 119.12(D). The notice of appeal may, but is not required to set forth the specific grounds for the appeal beyond the requisite statement that "the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law." *Id.*, at (D). Whenever it appears that the court lacks jurisdiction on the subject matter, the court shall dismiss the action. Oh. Civ. R. 12(H)(3).

The Appellant timely filed her Notice of Appeal to the Bureau of Motor Vehicles' Final Order of Suspension on June 22, 2016. Within her Memorandum on the same the Appellant briefly states her appeal is "...due to medical reasons. Being the main support for her and her family." (sic), yet as the Appellee notes this filing does not include the mandated language set out in O.R.C. 119.12(D). Despite her status as a pro se litigant, the Court finds that the Appellant did not comply with the statutory framework provided for appealing an order from the BMV suspending her license precluding the invocation of the Court's subject matter jurisdiction. *State ex rel. Fuller v. Mengel*, 100 Ohio St.3d 352, 2003-Ohio-6448, 800 N.E.2d 25, ¶ 10 (2003) ("They [*pro se* litigants] are held to the same standard as litigants who are represented by counsel."). Therefore, in light of O.R.C. 119.12(D), the Court finds that based on the record it lacks subject matter jurisdiction over this case and dismisses the appeal with prejudice.

Based on the foregoing, the Court declines to issue a decision regarding the issue raised in the Appellee's August 22, 2016, Brief, of whether the BMV's Final Order of Suspension is supported by reliable, probative, and substantial evidence and is not in accordance with law.

IT IS SO ORDERED.

This is a final appealable order. There is no just cause for delay.



Judge Richard E. Berens

Copies to:
Trista M. Turley, Esq., Executive Agencies Section, 30 E. Broad St., 26th Floor, Columbus, OH 43215
Ida J. North, 2700 Forest Retreat Rd., Lancaster, OH 43130

The Court hereby ORDERS
the Clerk to serve notice of this
Entry pursuant to Civil Rule 5
upon all parties not in default.