

**FILED**  
COLUMBIANA COUNTY  
COURT OF COMMON PLEAS

DEC 20 2017

ANTHONY J. DATTILIO  
CLERK (SCB)

IN THE COURT OF COMMON PLEAS  
COLUMBIANA COUNTY, OHIO

MICHAEL J. PIERRE, JR. )  
 )  
Plaintiff-Appellant )  
-vs- )  
 )  
OHIO BUREAU OF MOTOR VEHICLES )  
 )  
Defendant-Appellee )

Case No. 2017 CV 266

DECISION AND  
JUDGMENT ENTRY

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Before the Court for consideration on the merits is the Petition of the Plaintiff-Appellant, who is appealing the suspension of his driver's license. The Plaintiff-Appellant filed his merit brief on October 16, 2017. The Defendant-Appellee filed its merit brief on December 6, 2017. The Defendant-Appellee caused the Record of Proceedings to be filed on June 6, 2017. No party has filed an objection to the Record of Proceedings.

Based on the Record of Proceedings it is undisputed that the Plaintiff-Appellant was driving without required insurance. He was given at least three opportunities to provide proof of insurance; (1) at the time of the traffic stop; (2) when he appeared in the Columbiana County Municipal Court; and (3) within 21 days after receiving the March 29, 2017 Notice of Suspension from the Defendant-Appellee.<sup>1</sup>

The Notice of Suspension further advised the Plaintiff-Appellant of his right to request an Administrative adjudication hearing if he did not submit proof that insurance was in effect on the violation date.<sup>2</sup> At that hearing, the Plaintiff-

<sup>1</sup> Record of Proceedings, Exhibit 4, BMV 3622.

<sup>2</sup> Id., page 2

Appellant would have been given yet another opportunity to present proof of insurance, or that he was otherwise eligible for one of the exemptions set forth in R.C. §4509.101(L).<sup>3</sup> The Plaintiff-Appellant did not submit proof of insurance and he did not request an Administrative adjudication hearing.

The Plaintiff-Appellant continued to not take any action until such time as the issuance of a Final Notice of Suspension, dated May 3, 2017.<sup>4</sup> The Notice of Appeal filed with the Court does not challenge the Final Notice of Suspension as not being supported by reliable, probative, and substantial evidence.<sup>5</sup> This Court, however, is not deprived of jurisdiction.<sup>6</sup>

The controlling law is nevertheless quite clear. Under Ohio law a complainant must exhaust any administrative remedies before invoking the common pleas court's jurisdiction.<sup>7</sup> The supporting rationale is that exhaustion is necessary because an administrative agency utilizes its special expertise in hearing the issue and rendering a decision. As such, judicial deference is given to that decision. According to our Court of Appeals, if the interested parties are not required to exhaust any administrative remedies "there is the possibility that frequent and deliberate flouting of administrative processes could weaken the effectiveness of any agency by encouraging people to ignore its procedures."<sup>8</sup>

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<sup>3</sup> Id.

<sup>4</sup> Record of Proceedings, Exhibit 5, BMV 2192.

<sup>5</sup> See, R.C. § 119.12(D).

<sup>6</sup> Zidian v. Department of Commerce (2012), Not reported in N.E. 2d, 2012 WL 1116307 (Ohio App. Dist. 7), ¶ 43 (citations omitted).

<sup>7</sup> Id., ¶ 45 (citations omitted).

<sup>8</sup> Id., ¶ 48 (citations omitted).

Although required to exhaust his administrative remedies, this the Plaintiff-Appellant has not done. In fact, the Plaintiff-Appellant completely ignored his administrative remedies.

Based upon the record, including the Record of Proceedings, this Court finds that the Final Order of Suspension is supported by reliable, probative, and substantial evidence and is in accordance with law. Accordingly, the Final Order of Suspension of the Defendant-Appellee is hereby affirmed in all respects.

The costs of this action are taxed against the Plaintiff-Appellant.

**Pursuant to Civ. R. 58(B), the Clerk is requested to serve a copy of this Judgment Entry and its date of entry upon the journal upon all parties not in default for failure to appear.**

IT IS SO ORDERED.

SCOTT WASHAM

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Scott A. Washam, Judge

December 20, 2017

CC: James E. Lanzo, Esq.  
Joseph S. Hess, Esq.

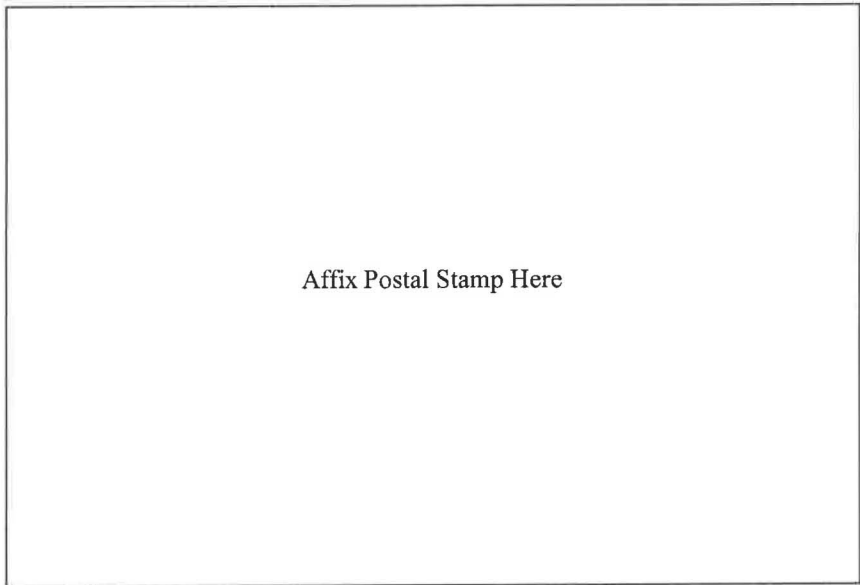
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