



COPY

**LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO**

**RON NABAKOWSKI, Clerk
JOURNAL ENTRY
Raymond J Ewers, Judge**

Date 6/4/12

Case No. 11CV174697

MICHAEL T GLYNN

Plaintiff

ARLENE SOKOLOWSKI-CRAFT

Plaintiff's Attorney

(440) 237-1900

VS

OHIO DEPARTMENT OF JOB & FAMILY
SERIVCES, ET AL.

Defendant

PATRICK MACQUEENEY

Defendant's Attorney

(216) 787-3030

This matter came on for consideration of Defendant Ohio Department of Job and Family Services' ("ODJFS") Motion to Dismiss, Plaintiff Michael Glynn's ("Mr. Glynn") Brief in Opposition and ODJFS' Reply Brief.

A motion to dismiss for failure to state a claim upon which relief can be granted is procedural and tests the sufficiency of the complaint. *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.* (1992), 65 Ohio St.3d 545. In order for a court to properly grant a motion to dismiss for failure to state a claim, it must appear "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *O'Brien v. University Community Tenants Union, Inc.* (1975), 42 Ohio St.2d 242, 245. Moreover, a trial court should not dismiss that complaint based on doubt that plaintiff will win on the merits. *Slife v. Kundtz Properties* (1974), 40 Ohio App.2d 179, paragraph four of the syllabus. A court must accept all factual allegations of the complaint as true and all reasonable inferences must be drawn in favor of the nonmoving party. *Byrd v. Faber* (1991), 57 Ohio St.3d 56, 60.





As Mr. Glynn failed to timely file his appeal within thirty days as required by R.C. 4141.284, this Court finds that it does not have subject matter jurisdiction to hear Mr. Glynn's appeal. Therefore, this Court hereby grants ODJFS' Motion to Dismiss. See *Fowler v. Summa Health Systems*, 9th Dist. No. CA22091, 2004-Ohio 6740, discr. Appeal allowed by *Fowler v. Summa Health Systems*, 105 Ohio St.3d 1501, 2005-Ohio-1666.

This action is hereby dismissed at Plaintiff Michael Glynn's costs. Case closed.

THIS IS A FINAL APPEALABLE ORDER.

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RAYMOND J EWERS, JUDGE

COUNSEL SHALL PROVIDE A COURTESY COPY DIRECTLY TO JUDGE EWERS' CHAMBERS BY FACSIMILE AT (440) 329-5731 OR BY E-MAIL AT KMACKINTOSH@LORAINCOUNTY.US OF ALL NOTICES OF DISMISSAL, MOTIONS OR ANY OTHER PLEADING THAT REQUIRES THE COURT'S ATTENTION. COUNSEL SHALL NOT RELY UPON THE FILING WITH THE CLERK OF COURTS THAT THE COURT HAS BEEN NOTIFIED OF SUCH FILING.

cc: Atty Craft
Atty MacQueeney
Southwest

