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FULTON COUNTY
COMMON PLEAS COURT
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JAMES W. WOODWARD
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IN THE COURT OF COMMON PLEAS OF FULTON COUNTY, OHIO

Cameron L. Thompson, *

Plaintiff - Appellant, *

-vs- * Case No. 12CV000030

Director of Ohio Dept. Of JFS, * **JUDGMENT ENTRY**

Defendant - Appellee. *

* * * * *

Coming on before the Court is the Appeal of Appellant Cameron L. Thompson, of a Decision rendered by the Unemployment Compensation Review Commission on January 4, 2012, which Appeal was filed in this Court on January 23, 2012. Pursuant to the Order of May 30, 2012, as amended by the Order of July 5, 2012, Appellant filed his Appellate Brief on July 16, 2012; Appellee Director filed his Answer Brief on July 31, 2012; Appellant filed his Reply Brief on August 29, 2012; Appellee filed his Sur-Reply Brief on September 7, 2012; and Appellant filed his Sur-Reply Brief on September 12, 2012. Thereafter the Court ordered Oral Arguments, which were held September 27, 2012. Due to the emergence of some Questions and Issues, that arose during the Court's deliberation of this matter, further Oral Argument, and Representations of Counsel were held "on the Record" on October 19, 2012, whereupon the matter is now deemed submitted for due adjudication.

Appellant began working as a full-time teacher for the Fayette Local School District (Fayette) on August 17, 2008. Due to a reduction in work force, Appellant was laid off from his full-time teaching employment, at Fayette, on July 13, 2011. Fayette does not contest that Appellant is entitled to receive unemployment benefits due to its layoff of Appellant.

Appellant also had a second job, outside of Fayette. He was also employed as an assistant football coach for the Archbold Area Local Board of Education (Archbold). Appellant signed his assistant coach's contract with Archbold on April 18, 2011. After having received notice of the termination of his contract and position with Fayette, Appellant soon realized it would be impossible for him to continue in his part-time assistant coaching position, because the requirements of that job would, in effect, interfere with his opportunity and ability to look for other full-time employment. Because of the long-coaching hours required, the changeability of those hours, the erratic schedule and constraints of coaching generally, and the realization that the minimal compensation he would receive was not commensurate with the much greater loss of income he had suffered from the Fayette position, caused Appellant to conclude that he was, in effect, being forced, by the pure press of the economics of his situation, from being able to continue with his coaching job. Thereupon he "resigned" his coaching position with Archbold, thirteen days after having received notice of his termination from Fayette, by submitting a letter of resignation, dated July 26, 2011, to the Archbold School authorities. Apparently Appellant was then re-offered the position on August 21, 2011, but he "refused" to accept that offer. His reasons for refusal were stated in his written and signed "response" to the Bureau, dated September 15, 2011, wherein Appellant reiterated his position that the offer was not of "suitable" work, given his circumstances.

Nowhere in the Record is it recorded that Appellant was advised that IF he refused the

Archbold contract, and his refusal were to be determined to be a refusal to accept or take “suitable” employment, then his entire award of “employment benefits,” to include those which were based upon his Fayette contract (\$48,342.37), as well as those which were based upon his Archbold contract (\$3,726.00), would be forfeit. In fact, upon representations of Counsel, the facts are that Mr. Thompson was probably not notified, nor made aware of this consequence.

Neither Fayette nor Archbold Schools entered any formal appearance in the bureaucratic proceedings, nor in the current appeal. The Ohio Department of Job and Family Services (Bureau) issued a Determination of Unemployment Compensation Letter granting Appellant’s application for unemployment benefits on July 20, 2011, this being one week after Appellant’s termination from Fayette, but six days before his resignation from Archbold. Appellant’s weekly benefit, based upon his incomes from both Archbold and Fayette combined, was set at \$500.00, and his total benefits payment was set at \$13,000.00. The total base wage for Fayette (teaching) was set at \$48,342.37, based upon fifty-two qualifying weeks, and his total base wage for Archbold (coaching) was set at \$3,726.00, based upon ten qualifying weeks. Any appeal of this decision was due by August 10, 2011. No appeal was filed at that time.

Appellant did receive one \$500.00 payment from the Bureau, which the Bureau now seeks to recover.

Sheakley Uniservice is Appellee’s Agent for purposes of Civil Proceedings and matters relating to Unemployment Compensation. On August 10, 2011, Ms. Tracy Brewster, Account Manager for Sheakley, and on behalf of Archbold, faxed to the Ohio Department of Job and Family Services a “letter” noting Archbold was, “not appealing a decision,” but wanted to attach a copy of the Appellant’s coaching contract, seeking “clarification,” as to whether the contract would create

an “eligibility issue.” As noted above, Appellant’s pay for the assistant coach’s position had been set at \$3,344.00, payable during five bi-weekly pays from September 9, 2011 through November 4, 2011.

On September 14, 2011, the Ohio Department of Job and Family Services issued a Decision which changed and reversed all prior Decisions, and it thereupon “denied” Appellant’s unemployment claim, based upon a Finding that Appellant had “refused” an “offer of work,” which was deemed to be related to Appellant’s part-time coaching position at Archbold, and thus, “suitable.” That “offer of work” was offered on August 21, 2011, for the position of “assistant coach.” Appellant replied by appeal to the Bureau on September 15, 2011, that the “offer” made on August 21, 2011 was not of “suitable work,” since an acceptance would have, “severely limited my full-time employability as an athletic trainer.” Unstated was the fact that this was the same position that Appellant had resigned from, for the reasons above stated.

On September 15, 2011, Appellant appealed the revised Decision denying him benefits.

On October 4, 2011, the Ohio Department of Job and Family Services issued its Decision affirming the Denial of Appellants’ benefits, based upon the re-offer of the coaching position at Archbold.

On October 14, 2011, the Unemployment Appeal was transferred to the Unemployment Compensation Review Commission for further process, all anent the issue of whether Appellant had refused a “suitable offer” of employment, without good cause. Appellant’s position was and remains to be that his “refusal” was for “good cause,” and he denies the work offered was “suitable.” In fact he claims he had resigned the same position, prior to the re-offer, precisely because it was not suitable, given his circumstances. An Administrative Hearing was held on November 3, 2011.

On November 10, 2011 the Bureau issued its Decision finding, “The Director’s overpayment Order in the amount of \$500.00 is affirmed (and) . . . The Director’s Redetermination, issued October 4, 2011, is affirmed.”

On January 4, 2012, the Bureau issued its Decision Disallowing a (further) Request for Review.

Thereupon Appellant filed his present Appeal with this Court on January 23, 2012.

Upon a Review of the Transcripts, the Evidence, the Law, and the Arguments of Counsel, the Court FINDS as follows:

1. Ohio’s Unemployment Compensation Law, and the Appellant’s circumstances, are to be construed “liberally” in Appellant’s favor. R.C. Sec. 4141.46.
2. Appellant was not re-offered “suitable” employment, given his circumstances, so as to meet the requirements and definitions set forth in R.C. Sec. 4141.29.
3. Appellant has demonstrated “good cause” for not accepting the re-offered employment contract with Archbold.
4. The Decision of the Unemployment Compensation Review Commission of January 4, 2012, is not in accord with the facts, the circumstances, and the Law in this matter; it cannot be sustained; and it should and must be reversed.
5. The failure of the Authorities to “Notify” Appellant of the legal effect of his refusal to accept the Archbold Contract, upon his overall award, raises significant Constitutional issues of Due Process, and of a “Taking” of property rights; but in light of the Court’s Ruling herein, on other grounds, such ruling renders the Constitutional Issues herein “moot,” and they will not be further addressed.

6. Appellee should and shall desist from any further attempt to recover the \$500.00 previously paid to Appellant.

7. This Case should and must be REMANDED back to the Ohio Department of Jobs and Family Services, for further process and proceedings consistent with the Court's FINDINGS and RULINGS herein.

The Court ADOPTS its FINDINGS as its ORDER.

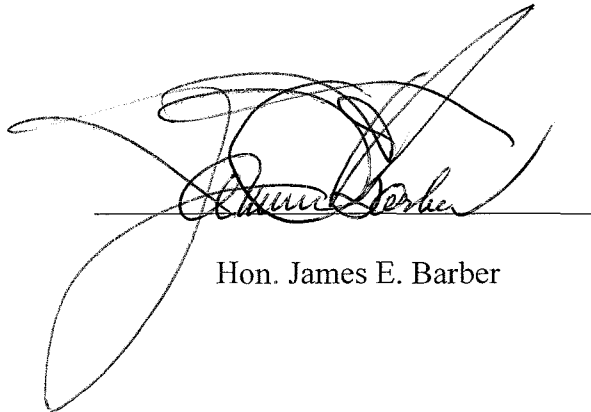
IT IS SO ORDERED.

Appellant'S Appeal is SUSTAINED. The within case is REMANDED with INSTRUCTIONS.

IT IS SO ORDERED.

THIS IS A FINAL, APPEALABLE JUDGMENT.

Costs to Appellee.

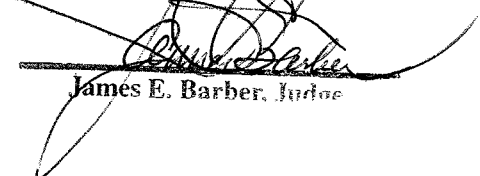


Hon. James E. Barber

cc: Jennifer Brown, Esq.
Eric Baum, Esq.

Copies Served 10/24/2012
Paul E. MacDonald, Clerk
By TJ

**This is a Final Judgement.
To the Clerk: Serve all parties
not in Default with "Notice" of
this Judgement, and "Date of its
Entry upon the Journal."**



James E. Barber, Judge