

COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

CRAIG CUMBERLAND,	:	
	:	
Appellant,	:	CASE NO. 13MS000658
	:	
vs.	:	JUDGE SCHNEIDER
	:	
OHIO DEPARTMENT OF JOB & FAMILY	:	
SERVICES, UNEMPLOYMENT	:	
COMPENSATION DEPARTMENT,	:	
	:	
Appellee.	:	

DECISION AND ENTRY
DISMISSING APPEAL FOR LACK OF JURISDICTION

SCHNEIDER, JUDGE

This case was filed by *pro se* appellant Craig Cumberland. Appellant’s “Motion for Judicial Dismissal of the Administrative Adverse Ruling of ODFJS/Unemployment Compensation Findings/Determinations,” which was filed pursuant to R.C. 4141.29, has been accepted by the Court as a Notice of Appeal. The Notice of Appeal states in significant part that Mr. Cumberland would like for the Court to dismiss or revoke the Ohio Department of Job & Family Services (ODJFS), Unemployment Compensation Department's finding that Appellant Cumberland is indebted to ODFJS for allegedly unlawfully received unemployment compensation in the amount of \$3,940.00 in case(s) 225885936-1 (Bob Evans) & 225647227-2 (Kelley Services). Mr. Cumberland also asserts in his Notice of Appeal that he has exhausted his administrative appeals with ODFJS as of May 31, 2013.

Ohio case law continues to hold that *pro se* civil litigants are bound by the same rules of procedures as litigants with counsel. *Copeland v. Rosario* (Jan. 28, 1998), 9th Dist. No. 18452 at 6, 1998 Ohio App. LEXIS 260 at *7. They are not accorded greater rights and must accept the results of their mistakes and errors. *Kilroy v. B.H. Lakeshore,*

111 Ohio App. 3d 357, 363 (1996); *Harris v. Hous. Appeals Bd.*, 9th Dist. No. 20499, 2003 Ohio 724, p. 11. *Pro se* litigants are presumed to have knowledge of the law and of correct legal procedure and are held to the same standard as all other litigants. *Meyers v. First Natl. Bank*, 3 Ohio App.3d 209, 444 N.E.2d 412 (1981).

Upon review, this case must be dismissed due to appellant's failure to invoke the subject matter jurisdiction of this Court as Appellant's Notice of Appeal does not comport with the requirements of R.C. 4141.282. "It is elementary that an appeal, the right to which is conferred by statute, can be perfected only in the mode prescribed by statute. . . ." *Zier v. Bureau of Unemployment Compensation*, 151 Ohio St. 123, syllabus para.1 (1949). The Ohio Supreme Court has further held that ". . . [c]ompliance with these specific and mandatory requirements governing the filing of such notice is essential to invoke jurisdiction of the Court of Common Pleas. . . ." *Id.* at paragraph two of the syllabus. In this case, the pertinent portion of R.C. 4141.282, being the statute governing the appeal procedure involved herein, states:

(D) The commission shall provide on its final decision the names and addresses of all interested parties. The appellant shall name all interested parties as appellees in the notice of appeal. The Director of Job and Family Services is always an interested party and shall be named as an appellee in the notice of appeal.

In this appeal, the appellant was required to "name all interested parties as appellees in the notice of appeal, including the Director of the Department of Job and Family Services." Appellant failed to name his prior employer and an interested party, Bob Evans, as a party to the appeal of case 225885936-1. Appellant failed to name his prior employer and an interested party, Kelley Services, as a party to the appeal of case 225647227-2. Appellant also failed to name the Director of ODJFS, as compared to just the Department itself, as a

party to the appeal of cases 225885936-1 (Bob Evans) & 225647227-2 (Kelley Services).

“An incorrect notice of appeal does not vest jurisdiction in the court of common pleas.” *Sydenstricker v. Donato's Pizzeria, L.L.C.*, 2010-Ohio-2953, at *5 (11th Dist.). See R.C. 4141.282(C). Appellant has not complied with the mandatory requirements of R.C. 4141.282(D). Consequently, the Court’s jurisdiction has not been invoked to review any decision of the Unemployment Compensation Review Commission with regard to Appellant.

Accordingly, the appeal herein is **DISMISSED** based on the fact that the Appellant has not invoked the jurisdiction of this Court.

Rule 58(B) of the Ohio Rules of Civil Procedure provides the following:

(B) Notice of filing. When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment on the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 5(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App. R. 4(A).

THE COURT FINDS THAT THERE IS NO JUST REASON FOR DELAY.

THIS IS A FINAL APPEALABLE ORDER. Pursuant to Civil Rule 58, the Clerk of Court shall serve notice upon all parties of this judgment and its date of entry.

IT IS SO ORDERED.

Copies To:

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Appellant

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Appellee

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Appellee

Franklin County Court of Common Pleas

Date: 06-17-2013
Case Title: CRAIG CUMBERLAND -VS- OHIO STATE DEPT JOB AND FAMILY SERVICES
Case Number: 13MS000658
Type: ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink, which appears to be 'C.A. Schneider'. To the right of the signature is a circular official seal, likely the seal of the Franklin County Court of Common Pleas, though the details are somewhat faded.

/s/ Judge Charles A. Schneider

Court Disposition

Case Number: 13MS000658

Case Style: CRAIG CUMBERLAND -VS- OHIO STATE DEPT JOB
AND FAMILY SERVICES

Case Terminated: 08 - Dismissal with/without prejudice

Motion Tie Off Information:

1. Motion CMS Document Id: 13MS0006582013-06-1099960000
Document Title: 06-10-2013-MOTION TO MOVE OR PLEAD
Disposition: MOTION RELEASED TO CLEAR DOCKET