

**COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

**THOMAS L. CHERRY,** :  
 :  
 **Appellant,** : **CASE NO. 16 CV 5189**  
 :  
 **-vs-** : **JUDGE KIMBERLY COCROFT**  
 :  
  
**JARED WADE, et al,** :  
 :  
 :  
 **Appellees.** :

**DECISION AND ENTRY**

**COCROFT, J.,**

On June 15, 2016, the Ohio Department of Job and Family Services (“ODJFS”) filed a motion to dismiss the appeal herein for lack of jurisdiction. Appellant did not file a memorandum in opposition. Moreover, there was no request for a hearing.

Appellee asserts that this Court lacks jurisdiction because Appellant did not file his notice of appeal within the thirty (30) day time period set forth in R.C. 4141.282(A). The record demonstrates that ODJFS mailed the decision of the Unemployment Compensation Review Commission on March 31, 2016. Although Appellant’s Notice of Appeal is dated May 26, 2016, the record demonstrates that it was filed with the Franklin County Clerk of Courts on June 1, 2016, well beyond the statutory time limit.

Additionally, this Court will note that Appellant did not file a brief, which was due on August 10, 2016, pursuant to the Clerk’s Original Case Schedule.

On June 13, 2016, ODJFS filed a motion and requested to be added as a party to this lawsuit. This motion and Appellant’s June 15, 2016 motion to dismiss brought the issue of jurisdiction to this Court’s attention. Thus, this Court will address the issue of jurisdiction *sua*

*sponte.*

Upon review, the record demonstrates that Appellant did not file his notice of appeal within the mandated statutory time period as set forth in R.C. 4141.282(A). Ohio case law continues to hold that *pro se* civil litigants are bound by the same rules and procedures as those litigants who retain counsel. *Copeland v. Rosario*, 1998 Ohio App. LEXIS 260. 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). *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 (1981).

With respect to procedural rules, *pro se* litigants are held to the same standards as a practicing attorney. The *pro se* litigant is to be treated the same as one trained in the law as far as the requirement to follow procedural law and adhere to court rules. If the Court treats a *pro se* litigant differently, the Court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel. See *Justice v. Lutheran Social Servs.* 1993 Ohio App. LEXIS 2029.

This Court is aware of R.C. 4141.282(I). However, the law does not require the doing of a futile act. *Mason City Sch. Dist. Bd. Of Educ. v. Warren County Bd. of Revision*, 138 Ohio St.3d 153.

Upon review, this Court concludes that it lacks jurisdiction and cannot proceed to address this appeal on its merits. Accordingly, the appeal herein is **DISMISSED sua sponte**. Because this Court does not have jurisdiction to proceed, Appellee's motions filed June 13, 2016 and June 15, 2016 are hereby **MOOT**. Alternatively, the appeal is **DISMISSED** with prejudice based on Appellant's failure to prosecute by not filing a brief. Civ. R. 41; *Genesis Outdoor Adver., Inc. v.*

*Troy Twp. Bd. of Zoning Appeals, 2003-Ohio 3692.*

**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 of this judgment and its date of entry upon all parties.**

**It is so ORDERED.**

Copies to all parties registered for e-filing

Franklin County Court of Common Pleas

**Date:** 08-16-2016

**Case Title:** THOMAS L CHERRY -VS- JARED WADE

**Case Number:** 16CV005189

**Type:** DECISION/ENTRY

It Is So Ordered.

A handwritten signature in black ink is written over a circular blue seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "1800" and "ALL THINGS ARE" at the bottom. The signature is a cursive-style name that appears to be "K. Cocroft".

/s/ Judge Kimberly Cocroft

Court Disposition

Case Number: 16CV005189

Case Style: THOMAS L CHERRY -VS- JARED WADE

Case Terminated: 10 - Magistrate

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 16CV0051892016-06-1599980000

Document Title: 06-15-2016-MOTION TO DISMISS - NON-PARTY: DEPARTMENT OF JOB AND FAMILY SERVICES

Disposition: MOTION IS MOOT

2. Motion CMS Document Id: 16CV0051892016-06-1399970000

Document Title: 06-13-2016-MOTION TO ADD PARTY - NON-PARTY: DEPARTMENT OF JOB AND FAMILY SERVICES

Disposition: MOTION IS MOOT