

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Sara Elizabeth Siegler, :
Appellant-Appellant, :
v. : No. 10AP-421
Ohio State University, : (C.P.C. No. 10CVF-02-2466)
Appellee-Appellee. : (REGULAR CALENDAR)

D E C I S I O N

Rendered on May 24, 2011

Sara Elizabeth Siegler, pro se.

Michael DeWine, Attorney General, Julie M. Pfeiffer and Lisa G. Whittaker, for appellee.

APPEAL from the Franklin County Court of Common Pleas

CONNOR, J.

{¶1} Appellant-appellant, Sara Elizabeth Siegler ("appellant"), appeals the judgment rendered by the Franklin County Court of Common Pleas dismissing her administrative appeal based upon jurisdictional grounds. For the reasons that follow, we affirm the judgment of the common pleas court.

{¶2} The merits of this matter concern the termination of appellant's employment with appellee-appellee, Ohio State University ("appellee"). This termination occurred on February 25, 2009. Appellant challenged her termination with the State Personnel Board of Review ("SPBR"). On February 4, 2010, the SPBR dismissed appellant's challenge for

lack of jurisdiction. On February 17, 2010, appellant filed an administrative appeal in the Franklin County Court of Common Pleas. On March 16, 2010, appellee filed a motion to dismiss based upon the common pleas court's lack of jurisdiction. The trial court granted this motion on April 20, 2010. It is from this dismissal that appellant appeals and raises the following six assignments of error:

First assignment of error:

Appellant is a "whistleblower" within the means of O.R.C. § 124.341, R.C. § 4112.02 and R.C. § 4113.52.

Second assignment of error:

The termination of Siegler, a "whistleblower," by appellee Ohio State University violated public policy, state laws, federal laws and the constitutional rights of Siegler.

Third assignment of error:

The dismissal of Siegler's State of Ohio State Personnel Board of Review ("SPBR") case (case number 09-WHB-03-0153; Sara Elizabeth Siegler vs. The Ohio State University Department of Pathology) by the SPBR on February 4, 2010 based on a lack of subject matter jurisdiction pursuant to O.R.C. § 124.341 was unreasonable, unlawful and against the weight of the evidence.

Fourth assignment of error:

The SPBR did not comply with the procedural requirements of R.C. § 119.09 with regard to its issuance of the full Board's February 4, 2010 order to Siegler, and the SPBR failed to certify the entire case record from Siegler's SPBR case to the Franklin County Court of Common Pleas.

Fifth assignment of error:

The jurisdiction in the above-captioned case was that of the Court of Common Pleas for the county of Franklin in the state of Ohio. See R.C. § 119.12.

Sixth assignment of error:

The dismissal of Siegler's appeal of the February 4, 2010 order of the full SPBR in the Franklin County Court of Common Pleas based on a lack of subject matter jurisdiction pursuant to R.C. § 119.12 granting the motion to dismiss filed by appellee on March 16, 2010 under Ohio Rule of Civil Procedure 12(B)(1) that was not properly served upon appellant was unlawful, unreasonable and against the weight of the evidence.

{¶3} Because we find it to be dispositive, we begin our analysis by considering appellant's fifth assignment of error. In presenting this assignment of error, appellant challenges the common pleas court's decision to dismiss her administrative appeal based upon the finding that it lacked subject-matter jurisdiction. For the reasons the follow, we find appellant's arguments to be unpersuasive.

{¶4} "Pursuant to R.C. 119.12, a party adversely affected by the SPBR's decision may appeal that decision to the common pleas court." *Ressler v. Ohio Dept. of Transp.*, 10th Dist. No. 09AP-338, 2009-Ohio-5857, ¶11. When the right to appeal is bestowed upon a party via a statute, such as R.C. 119.12, the "appeal can be perfected only in the mode prescribed by that statute." *Foreman v. Lucas Cty. Court of Common Pleas*, 189 Ohio App.3d 678, 2010-Ohio-4731, ¶12, citing *Ramsdell v. Ohio Civ. Rights Comm.* (1990), 56 Ohio St.3d 24, 27. Strict adherence to the filing requirements is necessary to invoke the common pleas court's jurisdiction over an administrative appeal under R.C. 119.12. *Id.*, citing *Hughes v. Ohio Dept. of Commerce*, 114 Ohio St.3d 47, 2007-Ohio-2877, ¶17; *L & F Tavern, Inc. v. Ohio Liquor Control Comm.*, 10th Dist. No. 09AP-873, 2010-Ohio-1025, ¶16. Appellate review of the issue of subject-matter jurisdiction is de novo. *Foreman* at ¶11, citing *Derakhshan v. State Med. Bd. of Ohio*,

10th Dist. No. 07AP-261, 2007-Ohio-5802, ¶1, citing *Hills & Dales v. Ohio Dept. of Edn.*, 10th Dist. No. 06AP-1249, 2007-Ohio-5156, ¶16.

{¶5} In *Foreman*, our court reviewed an appeal with a strikingly similar procedural posture. In that case, the appellant filed a notice of appeal in the common pleas court on August 14, 2009. On February 24, 2010, the common pleas court dismissed the appeal based upon the authority of *Medcorp, Inc. v. Ohio Dept. of Job & Family Servs.*, 121 Ohio St.3d 622, 2009-Ohio-2058. Upon our review, we noted that the amendments to R.C. 119.12, which were enacted in Sub. H.B. No. 215 and became effective on September 13, 2010, applied to the circumstances at issue in *Foreman*. We cited the amended statute, which provides:

Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. * * * The amendments made to this paragraph by Sub. H.B. 215 of the 128th general assembly are procedural, and this paragraph as amended by those amendments shall be applied retrospectively to all appeals pursuant to this paragraph filed before the effective date of those amendments but not earlier than May 7, 2009, which was the date the supreme court of Ohio released its opinion and judgment in *Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs.* (2009), 121 Ohio St.3d 622.

R.C. 119.12. Because the notice of appeal in *Foreman* was filed after May 7, 2009, our court found that the administrative appeal was subject to the amended procedural requirements. *Foreman* at ¶14. We found that the amended statute required a notice of appeal to at least state that the agency's order is not supported by reliable, probative, and

substantial evidence and is not in accordance with law. *Id.* at ¶15. Because the notice of appeal did not meet this requirement, we found that the trial court lacked subject-matter jurisdiction and accordingly affirmed the dismissal. *Id.* at ¶15, 21.

{¶6} With regard to the notice of appeal filed by the appellant herein, it provides in its entirety:

Notice is hereby given that Sara E. Siegler hereby appeals to the Franklin County Common Pleas Court of Franklin County, Ohio, from the final judgment entry of the State Personnel Board of Review entered on 02/04/2010.

(Feb. 17, 2010 Notice of Appeal.) This notice was filed after May 7, 2009. Therefore, R.C. 119.12, as amended by Sub. H.B. No. 215, applies to the circumstances of this matter. See *Foreman* at ¶14. Further, upon our review, it is clear that appellant's notice of appeal failed to comply with the statutory requirements. Indeed, notably absent from appellant's notice of appeal is any indication or allegation that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. As a result, appellant failed to invoke the jurisdiction of the common pleas court. See *Foreman* at ¶15. Because the common pleas court lacked subject-matter jurisdiction to hear appellant's administrative appeal, it did not err in granting appellee's motion to dismiss.

{¶7} As a procedural matter, the parties have presented various motions to this court. On September 9, 2010, appellant filed a motion for the admission of new evidence. On September 24, 2010, appellant filed a motion to strike the responsive memorandum to her motion for the admission of new evidence. On September 30, 2010, appellee filed a motion for leave to file a responsive brief *instanter*. On October 6, 2010, appellant filed a motion for the admission of newly discovered evidence. On October 25, 2010, appellant

filed a motion to strike appellee's notice of supplemental authority. On October 26, 2010, appellant filed a motion for costs. On December 21, 2010, January 20, 2011, and again on March 10, 2011, appellant filed supplements in support of her October 26, 2010 motion for costs. On January 26, 2011, appellant filed a motion to seal the January 20, 2011 supplement. Because none of these motions alter the jurisdictional defect in appellant's February 17, 2009 notice of appeal, none has any relation to the disposition of this appeal. We accordingly overrule appellant's motions filed on September 9, September 24, October 6, October 25, October 26, 2010 and January 26, 2011. We similarly overrule appellee's motion filed on September 30, 2010.

{¶8} On March 15, 2011, appellant filed a motion to redact portions of the January 20, 2011 supplement and the March 10, 2011 supplement. In this motion, appellant explains that the supplements filed on January 20 and March 10, 2011 contain certain medical information. She therefore seeks to have the attachments to these supplements redacted. Appellee has not objected to permitting such a redaction. Accordingly, we sustain appellant's March 15, 2011 motion and order the attachments to appellant's January 20 and March 10, 2011 supplements be redacted.

{¶9} Based upon the foregoing, we find that the common pleas court did not err in dismissing appellant's administrative appeal for lack of subject-matter jurisdiction. Accordingly, we overrule appellant's fifth assignment of error. Further, because appellant's first, second, third, fourth, and sixth assignments of error all regard appellant's termination and the proceedings before the SPBR, we find that these assignments of error cannot cure the jurisdictional defect presented in this matter. We therefore overrule appellant's first, second, third, fourth, and sixth assignments of error. Having overruled

each of appellant's six assignments of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Motions filed on September 9, September 24, September 30, 2010, October 6, October 25, October 26, 2010 and January 26, 2011 are overruled; Motion filed on March 15, 2011 sustained; judgment affirmed.

BRYANT, P.J., and BROWN, J., concur.
