[Cite as *Brookwood Presbyterian Church v. Ohio Dept. of Edn.*, 2009-Ohio-4645.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Brookwood Presbyterian Church,	:	
Appellant-Appellant,	:	
		No. 09AP-303
v.	:	(C.P.C. No. 08CVF05-07539)
Ohio Department of Education,	:	(ACCELERATED CALENDAR)
Appellee-Appellee.	:	

D E C I S I O N

Rendered on September 8, 2009

Buckley King, LPA, and *Donell R. Grubbs*, for appellant.

Richard Cordray, Attorney General, and *Mia Meucci*, for appellee.

APPEAL from the Franklin County Court of Common Pleas.

FRENCH, P.J.

{¶1} Appellant, Brookwood Presbyterian Church ("appellant"), appeals the judgment of the Franklin County Court of Common Pleas, which dismissed appellant's administrative appeal for lack of subject-matter jurisdiction. For the following reasons, we affirm.

{¶2} Appellant, a tax-exempt, nonprofit entity, applied for community school sponsorship. Appellee, the Ohio Department of Education (the "department"), denied appellant's application. The department concluded that appellant was not eligible to apply for sponsorship. Appellant appealed to the trial court. The department filed a motion to dismiss the appeal. The trial court concluded that, under R.C. 3314.015(B)(3), the department's decision was final and not appealable. The court dismissed the appeal for lack of subject-matter jurisdiction.

{¶3} Appellant appeals, raising five assignments of error:

> APPELLANT'S ASSIGNMENT OF ERROR NO. 1
>
> A Decision of the Ohio Department of Education Which Denies a Community School Sponsor Application, Under R.C. 3314.015 Is Subject To Appeal Under R.C. 119.12.
>
> APPELLANT'S ASSIGNMENT OF ERROR NO. 2
>
> R.C. 3314.015(B)(3) Does Not Preclude An Appeal Under R.C. 119.12 From a Decision of the Ohio Department of Education That An Entity Is Not An "Education-Oriented Entity" Eligible To Apply For Sponsorship of Community Schools in Ohio, Where That Decision is Made Solely Because the Entity Is Organized For Religious Purposes.
>
> APPELLANT'S ASSIGNMENT OF ERROR NO. 3
>
> R.C. 3314.015(B)(3), as Applied By the Ohio Department of Education, Violates the Equal Protection Clauses of the United States and Ohio [Constitutions].
>
> APPELLANT'S ASSIGNMENT OF ERROR NO. 4
>
> R.C. 3314.015(B)(3), as Applied By the Ohio Department of Education, Violates Art. I, § 7 of the Ohio Constitution.

APPELLANT'S ASSIGNMENT OF ERROR NO. 5

> The Ohio Department of Education's Failure to Certify Its Record to the Lower Court Compels Entry of Judgment in Favor of Brookwood on the Merits of Its Appeal, Pursuant to R.C. 119.12.

{¶4} We address appellant's first and second assignments of error together. In these assignments of error, appellant argues that the trial court erred by dismissing its appeal for lack of subject-matter jurisdiction. We disagree.

{¶5} Subject-matter jurisdiction refers to a court's power to adjudicate the merits of a case. *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, ¶11. A motion to dismiss for lack of subject-matter jurisdiction inherently raises questions of law. *Crosby-Edwards v. Ohio Bd. of Embalmers & Funeral Directors*, 175 Ohio App.3d 213, 2008-Ohio-762, ¶21. Appellate courts review de novo the issue of subject-matter jurisdiction without any deference to the trial court's determination. *Cheap Escape Co., Inc. v. Tri-State Constr., L.L.C.*, 173 Ohio App.3d 683, 2007-Ohio-6185, ¶18.

{¶6} "The legislature, in general, has provided the court of common pleas with no jurisdiction over an appeal of an agency decision except as R.C. 119.12 grants." *Springfield Fireworks, Inc. v. Ohio Dept. of Commerce, Div. of State Fire Marshal*, 10th Dist. No. 03AP-330, 2003-Ohio-6940, ¶17, citing *Asphalt Specialist, Inc. v. Ohio Dept. of Transp.* (1988), 53 Ohio App.3d 45. An R.C. 119.12 appeal cannot be taken from an agency action unless (1) the agency is specifically named in R.C. 119.01(A), (2) the agency action involves licensing functions, or (3) some other statute specifically makes the agency or agency action subject to R.C. 119.12. *Springfield Fireworks* at ¶19.

{¶7} Chapter 3314 of the Ohio Revised Code provides for the creation of community schools and prescribes the standards for their operation. In general terms, a community school is a school that operates independently from any school district pursuant to a contract with an authorized sponsoring entity. Although a private, nonprofit entity may apply to become a community school sponsor of a community school, a community school is a "public school" and is "part of the state's program of education." R.C. 3314.01(B).

{¶8} R.C. 3314.02(C)(1) defines those entities that are eligible to become community school sponsors, including local boards of education, for example. R.C. 3314.02(C)(1)(f) allows a tax-exempt, nonprofit entity to become a sponsor if it meets certain conditions. At issue here is the condition that the department must have approved the entity as an "education-oriented entity" pursuant to R.C. 3314.015(B)(3). See R.C. 3314.02(C)(1)(f)(iii).

{¶9} R.C. 3301.13 provides that, "[i]n the exercise of any of its functions or powers," the department is subject to Chapter 119 of the Revised Code. R.C. 3314.015(D) also provides that "[t]he decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship * * * may be appealed * * * in accordance with section 119.12 of the Revised Code." Appellant argues that these statutes gave the trial court jurisdiction over its appeal. We conclude, however, that the department's decision that appellant was not eligible to apply for community school sponsorship evokes a more specific statute, R.C. 3314.015(B)(3). That statute deems "final" the department's determination on whether

an entity is "an education-oriented entity" eligible to apply for community school sponsorship. With the exception of circumstances not applicable here, specific statutory provisions prevail over general ones. See R.C. 1.51. See also *State v. Volpe* (1988), 38 Ohio St.3d 191, 193 (recognizing that "[w]ell-established principles of statutory construction require that specific statutory provisions prevail over conflicting general statutes"). Thus, R.C. 3314.015(B)(3) applies, and we turn to the question of whether the statute disallowed appellant's appeal by deeming "final" the department's decision that appellant was not eligible to apply for community school sponsorship.

{¶10} In *Heartland Jockey Club, Ltd. v. Ohio State Racing Comm.* (Aug. 3, 1999), 10th Dist. No. 98AP-1465, this court concluded that a statute, R.C. 3769.089(E)(3), foreclosed appeals of the racing commission's decision to deny permission to simulcast a horse race because "the legislature included in the statute the sentence 'the determination of the commission is final.' " The statutory interpretation utilized in *Heartland Jockey* establishes that R.C. 3314.015(B)(3) forecloses appeals of the department's determinations on a nonprofit entity's eligibility to apply for community school sponsorship because the statute renders the department's decision final. Accordingly, R.C. 3314.015(B)(3) disallowed appellant's appeal, and the trial court did not err by dismissing the appeal for lack of subject-matter jurisdiction. Therefore, we overrule appellant's first and second assignments of error. Because we hold that the department's decision is not subject to appeal, we render moot appellant's remaining assignments of error. See App.R. 12(A).

{¶11} In summary, we overrule appellant's first and second assignments of error, and we render moot appellant's remaining assignments of error. Consequently, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

BROWN and SADLER, JJ., concur.