

[Cite as *Baker v. Lucas Cty. Dept. of Job and Family Services*, 2005-Ohio-1028.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

William M. Baker

Court of Appeals No. L-04-1220

Appellant

Trial Court No. CI-2003-6349

v.

Lucas County Dept. of Job and Family
Services

DECISION AND JUDGMENT ENTRY

Appellee

Decided: March 11, 2005

* * * * *

William Baker, pro se.

Julia R. Bates, Prosecuting Attorney, and Peter N. Kanios, Assistant Prosecuting
Attorney, for appellee.

* * * * *

HANDWORK, J.

{¶ 1} This is an accelerated appeal from the judgment of the Lucas County Court of Common Pleas which, on July 8, 2004, granted the motion to dismiss filed by appellee, Lucas County Department of Job and Family Services ("LCDJFS"), with respect to the administrative appeal filed by appellant, William M. Baker. For the following reasons, we affirm the decision of the trial court.

{¶ 2} Appellant had appealed to Ohio Department of Job and Family Services

("ODJFS") regarding a determination that he had received more food stamps than he was entitled. A hearing was scheduled for October 22, 2003, on appellant's appeal, with LCDJFS in Toledo. Appellant missed this hearing date and sought to have it rescheduled. LCDJFS denied appellant's request, finding that he had not established a "good reason" for not coming to his hearing. In its November 13, 2003 decision, ODJFS affirmed the decision of LCDJFS which denied appellant's request for a new hearing date and dismissed appellant's hearing request as "abandoned."

{¶ 3} On December 17, 2003, appellant appealed ODJFS's "Administrative Appeal Decision," entered on November 13, 2003, to the common pleas court. The sole "defendant-appellee" named on appellant's notice of appeal, however, was LCDJFS. On July 8, 2004, the trial court dismissed appellant's appeal for having failed to name or serve the proper party in his administrative appeal. Appellant appealed the dismissal of his administrative appeal in the common pleas to this court and raises the following issues as his assignments of error:

{¶ 4} "I. Whether, when the appellant attached the appropriate decision appealed from, to his timely filed Notice of Appeal he met the requirement of Appellate Rule 4(a)?

{¶ 5} "II. Whether, when the appellant named the inappropriate party in captioning the case, in that the appellant mistakenly named the lesser party who made the prior decision in the instant case, which decision had been upheld in the appropriate decision appealed from, attached to the Notice of Appeal, the mistake was an omission due to inadvertence, omission mechanical in nature, not intentionally excluded, and the

court was in error to dismiss the case?

{¶ 6} "III. Whether in the interest of justice appellant's application to amend it's appeal, to amend form, to provide for naming proper party to appeal will be granted?"

{¶ 7} Pursuant to R.C. 5101.35, the decision entered by ODJFS on November 13, 2003 is the decision from which appellant is entitled to appeal to the common pleas court. Appellant, however, failed to name ODJFS in his appeal or serve ODJFS with notice of his appeal, as required by R.C. 5101.35(E)(3). Accordingly, we find that the trial court properly dismissed appellant's appeal against LCDJFS, since it was not the proper party.

{¶ 8} Appellant argues that he complied with App.R. 4(A); however, we find App.R. 4(A) is inapplicable to appellant's appeal in the common pleas court. Appellant's administrative appeal is actually governed by R.C. 5101.35, and applicable administrative rules, and by R.C. 119.12, with which appellant failed to comply.

{¶ 9} Appellant additionally argues that he should have been allowed to amend his appeal. We find, however, that although appellant had requested to amend his notice of appeal to "include damages for violating his civil rights" and his "human right to hearing before guilt was determined," appellant never actually sought leave to amend his notice of appeal to name the proper party. Having failed to raise the issue in the trial court, we are unable to address appellant's request herein.

{¶ 10} Accordingly, we find appellant's assignments of error not well-taken. On consideration whereof, the court finds substantial justice has been done the party complaining and the judgment of the Lucas County Court of Common Pleas is affirmed.

Pursuant to App.R. 24, costs are assessed to appellant.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

Peter M. Handwork, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Dennis M. Parish, J.
CONCUR.

JUDGE