

[Cite as *Pease v. Ohio Civ. Rights Comm.*, 2015-Ohio-1386.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102016

JERINE L. PEASE

PLAINTIFF-APPELLANT

vs.

OHIO CIVIL RIGHTS COMMISSION, ET AL.

DEFENDANTS-APPELLEES

JUDGMENT:
AFFIRMED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-13-808877

BEFORE: Keough, P.J., Kilbane, J., and Stewart, J.

RELEASED AND JOURNALIZED: April 9, 2015

APPELLANT

Jerine L. Pease, pro se
6734 Chinkapin Court
Oakwood Village, Ohio 44146

ATTORNEY FOR APPELLEES

Patrick M. Dull
Assistant Attorney General
30 East Broad Street
15th Floor
Columbus, Ohio 43215

KATHLEEN ANN KEOUGH, P.J.:

{¶1} This cause came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1. The purpose of an accelerated appeal is to allow the appellate court to render a brief and conclusory opinion. *Crawford v. Eastland Shopping Mall Assn.*, 11 Ohio App.3d 158, 463 N.E.2d 655 (10th Dist.1983); App.R. 11.1(E).

{¶2} Plaintiff-appellant, Jerine L. Pease, appeals the trial court's decision affirming the decision of the Ohio Civil Rights Commission ("OCRC"). Finding no merit to the appeal, we affirm.

{¶3} Pease filed an allegation with the OCRC claiming that her former employer, the Cleveland Clinic Foundation ("the Clinic"), discriminated against her due to race. At the conclusion of the investigation, the OCRC issued a Letter of Determination ("Letter") dated May 16, 2013, finding no probable cause for the OCRC to issue an administrative complaint accusing the Clinic of an unlawful discriminatory practice. Pease timely petitioned the Cuyahoga County Court of Common Pleas for judicial review of the OCRC decision pursuant to R.C. 4112.06. The trial court affirmed the OCRC's decision. Pease appeals, raising two assignments of error.

I. Subsequent Letter of Determination — Additional Evidence

{¶4} Pease petitioned the trial court for judicial review of the OCRC's May 16, 2013 letter finding "no probable cause." The underlying basis for the petition was that the OCRC's findings of fact did not justify the OCRC's decision not to issue a complaint — the OCRC "based its refusal to issue a complaint on an incomplete sentence and a

pronoun.” Therefore, Pease argued that the OCRC’s Letter “does not justify the [OCRC’s] refusal to issue a complaint.”

{¶5} The trial court agreed that the OCRC’s Letter contained apparent errors in its findings of fact. The trial court remanded the case to the OCRC “for a more detailed Letter of Determination explaining the basis for denying petitioner/appellant’s claim.” The OCRC reissued a Letter of Determination dated October 19, 2013, complying with the court’s remand order and setting forth the requisite factual findings pursuant to R.C. 4112.05(H).

{¶6} The trial court conducted a judicial review of the findings contained in the subsequent Letter and affirmed the OCRC’s decision. In her first assignment of error, Pease contends that the lower court erred when it used the Letter of Determination dated October 19, 2013 to reach its final judgment because it contained “additional evidence.”

{¶7} In *McCrea v. Ohio Civ. Rights Comm.*, 20 Ohio App.3d 314, 486 N.E.2d 143 (9th Dist.1984), the court explained that no evidentiary hearing is held when the OCRC makes a probable cause determination.

Prior to the filing of a complaint, the procedure set out in the statute is informal and in the nature of an ex parte proceeding. Although the commission investigates the charge, it does not seek to receive formal evidence. * * * A determination of no probable cause is one which cannot, therefore, be reviewed on the basis of reliable, probative, and substantial evidence.

Id. at 316. Therefore, the product of the OCRC’s investigation does not constitute evidence that could be reevaluated by the trial court, but rather only contains the factual findings contained in its Letter. *Hous. Advocates, Inc. v. Am. Fire & Cas. Co.*, 8th Dist.

Cuyahoga Nos. 86444 and 87305, 2006-Ohio-4880, ¶ 9-11; *McCrea* at 316.

{¶8} In this case, the original Letter was deficient and did not comply with the mandate of R.C. 4112.05(H) requiring the OCRC to issue factual findings. Absent a showing to the contrary, we find that the subsequent Letter did not contain the admission of additional evidence; rather, the subsequent Letter merely provided Pease with what she was originally denied — factual findings explaining why the OCRC declined to issue an administrative complaint accusing the Clinic of an unlawful discriminatory practice.

{¶9} Accordingly, her first assignment of error is overruled.

II. Dismissal of Employer as Respondent

{¶10} When Pease petitioned the trial court for judicial review of the OCRC decision, Pease named both the OCRC and the Clinic as respondents. The OCRC moved to dismiss the Clinic as a respondent pursuant to Civ.R. 21 because the Clinic had no role in the review process. Pease opposed the motion contending that the Clinic would be affected by a ruling in her favor. The trial court granted the OCRC's motion. In her second assignment of error, Pease contends that the lower court erred when it dismissed the Clinic as a respondent to her petition.

{¶11} The decision to add or drop a party pursuant to Civ.R. 21 is within the discretion of the trial court. *Darby v. A-Best Prods. Co.*, 102 Ohio St.3d 410, 2004-Ohio-3720, 811 N.E.2d 1117, ¶ 12, citing *Bill Gates Custom Towing, Inc. v. Branch Motor Express Co.*, 1 Ohio App.3d 149, 150, 440 N.E.2d 61 (10th Dist.1981). In this case, we find the trial court's decision dismissing the Clinic as a respondent was not an

abuse of discretion.

{¶12} R.C. 4112.06(B) requires that judicial review is initiated by filing a petition in the court and service of the copy of the petition shall be made upon the commission and “upon all parties who appeared before the commission.” R.C. 4112.06 does not dictate who must be named as a party in a judicial review of an OCRC decision.

{¶13} However, a petition filed pursuant to R.C. 4112.06 requesting judicial review of a “no probable cause” decision made by the OCRC only allows for a petitioner to contest a decision of the OCRC. Because the Clinic did not make the “no probable cause” decision that is under review, the Clinic is not a necessary party. Therefore, the trial court did not abuse its discretion in granting the OCRC’s Civ.R. 21 motion to dismiss the Clinic as a party.

{¶14} Pease’s second assignment of error is overruled.

{¶15} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KATHLEEN ANN KEOUGH, PRESIDING JUDGE

MARY EILEEN KILBANE, J., and
MELODY J. STEWART, J., CONCUR