

Commonwealth of Kentucky

Court of Appeals

NO. 2014-CA-001528-MR

WILLIE J. STEWART

APPELLANT

v. APPEAL FROM FRANKLIN CIRCUIT COURT
HONORABLE THOMAS D. WINGATE, JUDGE
ACTION NO. 14-CI-00515

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION AND ORDER
DISMISSING APPEAL

** ** * * * * *

BEFORE: COMBS, NICKELL, AND VANMETER, JUDGES.

COMBS, JUDGE: Willie Stewart appeals the order of the Franklin Circuit Court which dismissed his petition for declaration of rights. After our review, we are compelled to dismiss the appeal.

On May 5, 2014, Stewart, an inmate at Northpoint Training Center, filed a petition for declaration of rights. The defendants named in the petition were the Kentucky Department of Corrections and LaDonna Thompson, Aaron Smith, and Brenn Combs¹ in their official capacities. The trial court dismissed the petition on August 19, 2014. Stewart filed his notice of appeal on September 16, 2014, naming the Commonwealth of Kentucky as the sole appellee. The petition specifically referred to the office of the Attorney General at Capitol Center Drive in Frankfort.

We must dismiss the appeal because the Commonwealth was not a party in the underlying case. *See Lewis LP Gas, Inc. v. Lambert*, 113 S.W.3d 171, 176 (Ky. 2003) (abrogated on other grounds by *Hoskins v. Maricle*, 150 S.W.3d 1 (Ky. 2004)). Furthermore, the notice of appeal does not include any of the parties named in Stewart's petition. "[F]ailure to name an indispensable party in the notice of appeal results in dismissal of the appeal." *Slone v. Casey*, 194 S.W.3d 336, 337 (Ky. App. 2006).

Therefore, this appeal must be and is, hereby, dismissed.

¹ The petition had misspelled Combs's name. We have corrected the spelling.

ALL CONCUR.

ENTERED: August 28, 2015

/s/ Sara W. Combs
JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT:

Willie J. Stewart, *pro se*
Northpoint Training Center
Burgin, Kentucky

BRIEF FOR APPELLEE:

Amy V. Barker
Frankfort, Kentucky