

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO**

PATRICIA WILLIAMS-LINDSEY,	:	OPINION
Appellant,	:	
- vs -	:	CASE NO. 2019-T-0054
OHIO DEPARTMENT OF HEALTH,	:	
Appellee.	:	

Administrative Appeal from the Trumbull County Court of Common Pleas, Case No. 2018 CV 01793.

Judgment: Affirmed.

Patricia Williams-Lindsey, pro se, General Delivery, Warren, Ohio 44483 (Appellant).

Dave Yost, Ohio Attorney General, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215, *Vivian P. Tate*, Principal Assistant Attorney General, and *Denise N. Rini*, Senior Assistant Attorney General, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215 (For Appellee).

MARY JANE TRAPP, J.

{¶1} Appellant, Patricia Williams-Lindsey (“Mrs. Williams-Lindsey”), appeals the judgment of the Trumbull County Court of Common Pleas which dismissed her administrative appeal. The trial court found Mrs. Williams-Lindsey reached a mutually agreeable settlement and that appellee, the Ohio Department of Health (“ODH”), never reached a decision on the merits. Since no decision was ever reached in the

administrative action, the trial court determined that there was no justiciable controversy before the court.

{¶2} Mrs. Williams-Lindsey now argues the trial court erred in dismissing her appeal because she has newly released information that demonstrates the trial court’s judgment is not supported by reliable, probative, and substantial evidence, and is not in accordance with the law.

{¶3} At the outset, we must note that we are severely limited in our review of an administrative appeal from the trial court. We agree with the trial court, however, that Mrs. Williams-Lindsey settled the case prior to an administrative decision by ODH on the merits. Thus, there was no justiciable controversy to appeal.

{¶4} We also note the purportedly “newly released information from the government” consists of Mrs. Williams-Lindsey’s own personal documents, and they are dated prior to the settlement. Thus, they could have been reasonably discovered prior to the ODH hearing. Since ODH never reached the substantive merits of the issues between the parties, this newly released information has no bearing on the present appeal, and Mrs. Williams-Lindsey does not explain in her brief how this information is relevant.

{¶5} We affirm the judgment of the Trumbull County Court of Common Pleas.

Substantive and Procedural History

{¶6} This case began with a 30-day discharge notice served on Mrs. Williams-Lindsey by Community Skilled Health Care Centre (“the Centre”), a rehabilitation and long-term care residential facility in Warren, Ohio. Mrs. Williams-Lindsey was staying at the facility due to recent heart and cancer treatments.

{¶7} The notice stated Mrs. Williams-Lindsey would be discharged due to her failure to pay for the care she received at the facility or have Medicare/Medicaid pay on her behalf. Upon her discharge, the notice provided that Mrs. Williams-Lindsey would be transferred to another nearby facility known as White Oak Manor.

{¶8} Upon Mrs. Williams-Lindsey's request, a hearing was held with the administrator and the business office manager of the Centre, an individual from social services, and Mrs. Williams-Lindsey.

{¶9} The decision of the hearing officer following the hearing explained that the discharge issue centered around Mrs. Williams-Lindsey's failure to pay her patient liability. The Centre contended that it was notified by the Mahoning County Department of Job and Family Services that Mrs. Williams-Lindsey was responsible for patient liability in the amount of \$720 per month from the date of her admission, which began on approximately April 1, 2018. The Centre conceded that this determination was not made until July 2, 2018 but that it billed Mrs. Williams-Lindsey for her monthly patient liability at \$681 per month from April 1 through June 30 and at \$720 per month from July 1 through August 31, for a total sum of \$3,483.

{¶10} Before the hearing, a discussion between the parties was held off the record, and a settlement was reached whereby the Centre agreed to accept \$1,500 to resolve the payments for July and August and to forgive collection of the patient liability for April, May, and June. The hearing officer decision notes that Mrs. Williams-Lindsey tendered the agree-upon amount and that "by agreement of the parties, the instant discharge notice was dismissed."

{¶11} Mrs. Williams-Lindsey filed an appeal with the trial court on October 4, 2018, alleging that the agency’s decision was not supported by reliable, probative, and substantial evidence.

{¶12} ODH filed a motion to dismiss, arguing there was no justiciable controversy because no final decision was ever rendered by ODH. A settlement was reached before any substantive issues on the merits were decided. In addition, ODH argued the appeal did not conform to requirements of R.C. 119.12 since no grounds were stated for her appeal.

{¶13} The trial court granted ODH’s motion to dismiss, agreeing with ODH that the parties settled their discrepancy before ODH issued a substantive decision on the merits. The Centre agreed to forgive collection of Mrs. Williams-Lindsey’s charges for three months in exchange for a payment of \$1,500. Mrs. Williams-Lindsey tendered the amount, and no issues remained outstanding between the party, either in the terms of the settlement agreement or before the agency.

{¶14} Mrs. Williams-Lindsey subsequently appealed to this court and raises one assignment of error:

{¶15} “Per law, all Centre charges against Appellant for patient liability cost were inappropriate, causing the court to error [sic] in its decision to dismiss the case for a lack of controversy and jurisdiction over complaint.”

Justiciable Controversy

{¶16} In Mrs. Williams-Lindsey’s sole assignment of error, she contends the trial court erred in granting ODH’s motion to dismiss because there is a justiciable controversy and that she obtained “newly released information from the government.”

{¶17} The standard of review for an administrative decision is set forth in R.C. 119.12. The standard of review for the common pleas court is to determine if the agency's order is supported by reliable, probative, and substantial evidence and is in accordance with the law. *Kroehle Lincoln Mercury, Inc. v. Bur. of Motor Vehicles*, 11th Dist. Trumbull No. 2006-T-0093, 2007-Ohio-5204, ¶29, citing *Maggard v. Ohio Dept. of Commerce*, 11th Dist. Lake No. 2002-L042, 2003-Ohio-4098, ¶9, citing *Pons v. Ohio State Med. Bd.*, 66 Ohio St.3d 619, 621 (1993). An appellate court's review of an administrative agency's action is limited to determining whether the court of common pleas abused its discretion. (Citation omitted.) *Id.*, citing *Maggard* at ¶9.

{¶18} “An ‘abuse of discretion’ is one of art, connoting judgment exercised by a court, which does not comport with reason or the record. *State v. Underwood*, 11th Dist. Lake No. 2008-L-113, 2009-Ohio-2089, ¶30, citing *State v. Ferranto*, 112 Ohio St. 667, 676-678 (1925).” *State v. Raia*, 11th Dist. Portage No. 2013-P-0020, 2014-Ohio-2707, ¶9. Stated differently, an abuse of discretion is “the trial court's ‘failure to exercise sound, reasonable, and legal decision-making.’” *Id.*, quoting *State v. Beechler*, 2d Dist. Clark No. 09-CA-54, 2010-Ohio-1900, ¶62, quoting *Black's Law Dictionary* 11 (8th Ed.Rev.2004). “When an appellate court is reviewing a pure issue of law, ‘the mere fact that the reviewing court would decide the issue differently is enough to find error[.] * * * By contrast, where the issue on review has been confined to the discretion of the trial court, the mere fact that the reviewing court would have reached a different result is not enough, without more, to find error.’” *Id.*, quoting *Beechler* at ¶67.

{¶19} In this case, the parties reached a settlement agreement, and each fulfilled their obligations under the agreement. ODH never issued a decision on the merits of the

case. Thus, we cannot find the trial court abused its discretion in finding there was no justiciable controversy before the court and in granting ODH's motion to dismiss.

{¶20} The Eighth District aptly discussed the concept of a justiciable controversy in *Cent. Motors Corp. v. Pepper Pike*, 9 Ohio App.3d 18 (8th Dist.1983):

{¶21} "Moot cases are dismissed because they no longer present a justiciable controversy. The requested relief has been obtained, it serves no further purpose, it is no longer within the court's power, or it is not disputed. The Franklin County Court of Appeals explained this concept in *Davies v. Columbia Gas & Elec. Corp.* (1946), 47 Ohio Law Abs. 225, at 228, * * * reversed on other grounds (1949), 151 Ohio St. 417 * * *:

{¶22} "A "moot case" is one which seeks to get a judgment on a pretended controversy, when in reality there is none, or a decision in advance about a right before it has been actually asserted and contested, or a judgment upon some matter which, when rendered, for any reason, cannot have any practical legal effect upon a then existing controversy.'

{¶23} "'*Ex Parte Steele* [D.C.Ala., (1908)], 162 Fed. 694, 702.

{¶24} "Courts do not concern themselves with controversies that are not justiciable. As this case now stands in this Court, there is no issue between the parties. The facts well pleaded in the amended petition are admitted. Unless and until there is such issue, a determination that if, and when, an issue arises it will be moot, is certainly premature.'

{¶25} "Judge Hurd of [the Eighth District] quoted with approval the comparable definition in Borchard, *Declaratory Judgments* (2 Ed.), at page 35, while serving on the

Trumbull County Court of Appeals in *Culver v. Warren* (1948), 84 Ohio App. 373, at 393

* * *.

{¶26} ““Actions or opinions are described as ‘moot’ when they are or have become fictitious, colorable, hypothetical, academic or dead. The distinguishing characteristic of such issues is that they involve no actual, genuine, live controversy, the decision of which can definitely affect existing legal relations.”” *Id.* at 19.

{¶27} Mrs. Williams-Lindsey argues there is a justiciable controversy remaining because of “newly released information from the government.” Under R.C. 119.12, the *court of common pleas* may grant a request for the admission of additional evidence when it is satisfied that such additional evidence is newly discovered and could not have been ascertained prior to the hearing before the agency from which an appeal to such court is taken. (Emphasis added.)

{¶28} Attached to Mrs. Williams-Lindsey’s brief in this appeal are documents relating to her Medicaid eligibility, assistance information, and social security benefits. All are dated prior to the date of the hearing and are from February 2018 to April 2018. They appear to be her personal documents that she received in the mail and/or accessed online. She does not provide any reason why this information is “newly considered” or how it creates a justiciable controversy between the parties that can be resolved by the courts. Moreover, she was required to introduce this evidence in the trial court, not in the court of appeals, which is limited to reviewing the trial court’s judgment for an abuse of discretion. See R.C. 119.12.

{¶29} As we succinctly stated in *Schuster v. Ohio State Dental Bd.*, 11th Dist. Trumbull No. 94-T-5035, 1995 WL 378660 (May 12, 1995), where we determined a trial

court did not abuse its discretion in excluding the appellant's alleged "newly discovered evidence": "[a]ll of the evidence which appellant sought to introduce in the instant case was in existence and known to appellant at the time of the administrative proceeding. Therefore, it does not constitute newly discovered evidence * * *." *Id.* at *2..

{¶30} For the foregoing reasons, the trial court did not abuse its discretion in finding that there was no justiciable controversy before the court. Mrs. Williams-Lindsey's assignment of error is without merit.

{¶31} The judgment of the Trumbull County Court of Common Pleas is affirmed.

TIMOTHY P. CANNON, P.J.,

THOMAS R. WRIGHT, J.,

concur.