

STATE OF OHIO            )  
                                  )ss:  
COUNTY OF SUMMIT    )

IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT

GLORIA CRABLE

Appellant

v.

OHIO CIVIL SERVICE EMPLOYEES  
ASSOCIATION (OCSEA) LOCAL (11),  
et al.

Appellees

C. A. No.     24634

APPEAL FROM JUDGMENT  
ENTERED IN THE  
COURT OF COMMON PLEAS  
COUNTY OF SUMMIT, OHIO  
CASE No.     CV 2008-06-4267

DECISION AND JOURNAL ENTRY

Dated: September 30, 2009

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CARR, Judge.

{¶1} Appellant, Gloria Crable, appeals the judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

{¶2} On June 9, 2008, Ms. Crable filed a complaint against appellees, Ohio Civil Service Employees Association; Bruce Thompson, chapter president; and Steve Wiles (collectively “OCSEA”), alleging that the bargaining unit and its representatives breached their duty of fair representation in regard to her employment situation. That situation involved allegations that her employer, non-parties Ohio Department of Youth Services and Indian River Correctional Facility, violated the Family Medical Leave Act and wrongfully terminated her employment. OCSEA answered, raising several affirmative defenses. On August 25, 2008, the trial court issued an order of reference, assigning the case to the magistrate.

{¶3} The parties appeared for a pretrial, at which time the magistrate set a deadline for the filing of dispositive motions. OCSEA timely filed a motion for judgment on the pleadings. On November 20, 2008, the magistrate issued a decision, stating that Ms. Crable had sent her response to OCSEA’s motion, as well as her own motion for judgment on the pleadings, to OCSEA’s counsel, but that she never filed either document with the clerk of courts. The official transcript of docket and journal entries does not indicate that Ms. Crable ever filed either document. In his decision, the magistrate granted OCSEA’s motion for judgment on the pleadings and dismissed Ms. Crable’s complaint.

{¶4} Twenty days later, on December 10, 2008, Ms. Crable filed a “Motion For Leave Of Court For An Extension To Appeal,” which the trial court construed as a motion for an extension of time in which to file objections. The trial court denied the motion for an extension of time upon finding that it was not timely filed. On December 18, 2008, Ms. Crable filed a “Motion for leave of Court Reconsideration for Extension to appeal.” On January 21, 2009, the trial court issued an order, denying Ms. Crable’s motion for reconsideration, adopting the magistrate’s decision, and dismissing Ms. Crable’s complaint. Ms. Crable filed a timely appeal.

## II.

{¶5} Although Ms. Crable has not set forth a statement of the assignments of error presented for review, we construe her brief argument as one asserting that the trial court erred by adopting the magistrate’s decision granting OCSEA’s motion for judgment on the pleadings and dismissing her complaint. This Court disagrees.

{¶6} Civ.R. 53(D)(3)(b)(i) permits any party to file objections to a magistrate’s decision within fourteen days of the filing of the decision. Civ.R. 53(D)(3)(b)(iv) prohibits a

party from complaining to the appellate court about a claimed factual or legal error unless the party objected to the finding at the trial level.

{¶7} The November 20, 2008 magistrate’s decision was very clear on this requirement and expressly stated:

“(5) The parties and/or their counsel are specifically warned and noticed hereby that a party may not assign as error on appeal the adoption by the trial court of any finding of fact or conclusion of law set forth herein unless a timely and specific objection is first made to the trial court pursuant to Civ.R. 53(D)(3)(a)(iii).”

{¶8} In this case, Ms. Crable did not file timely objections to the magistrate’s decision. She has not alleged plain error on appeal. Accordingly, this Court is required to conclude that Ms. Crable has waived her right to assign the trial court’s adoption of the magistrate’s decision as error on appeal. See Civ.R. 53(D)(3)(b)(iv); *Karcher v. Chadima*, 9th Dist. No. 21485, 2004-Ohio-956, at ¶8. Ms. Crable’s assignment of error is overruled.

### III.

{¶9} Ms. Crable’s assignment of error is overruled. The judgment of the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

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There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

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DONNA J. CARR  
FOR THE COURT

MOORE, P. J.  
DICKINSON, J.  
CONCUR

APPEARANCES:

GLORIA CRABLE, pro se, Appellant.

THOMAS B. COCHRANE, Associate General Counsel, for Appellees.