

ORIGINAL

In the
Supreme Court of Ohio

STATE ex rel.	:	
GLENDAL. HILL-FOSTER,	:	Case No. 2014-2253
	:	
Appellant,	:	On Appeal from Court of Appeals
	:	for Franklin County, Ohio,
vs.	:	Tenth Appellate District
	:	Case No. 14AP-335
INDUSTRIAL COMMISSION OF OHIO,	:	
et al.,	:	
	:	
Appellees.	:	

**RESPONDENT-APPELLEE, INDUSTRIAL COMMISSION OF OHIO'S
MOTION TO DISMISS**

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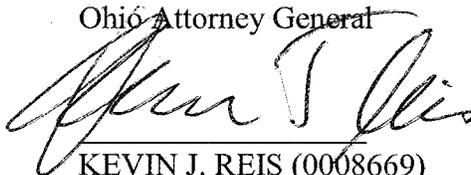
FILED
JAN 12 2015
CLERK OF COURT
SUPREME COURT OF OHIO

**RESPONDENT-APPELLEE INDUSTRIAL COMMISSION'S MOTION TO DISMISS
FOR LACK OF JURISDICTION**

Respondent-Appellee, Industrial Commission (“commission”) moves the Court to dismiss Relator’s appeal, as it is not brought from an order of the lower court, but from the Magistrate’s Decision of November 19, 2014 (see Appendix to Notice of Appeal). The decision of the Magistrate is not a final judgment entry or a final appealable order and, accordingly, this Court does not have jurisdiction to hear the appeal.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

This case originated as an action in mandamus in the Tenth District Court of Appeals, Case No. 14AP-335. Pursuant to the Local Rule 13(M), the Court referred the case to a magistrate under Civ.R. 53(C). On November 19, 2014, the magistrate issued a “Magistrate’s Decision.” Pursuant to Civ.R. 53(D)(3)(b)(i), the parties had fourteen days in which to file objections, before the Court of Appeals issued its final decision. Relator Glenda Hill-Foster (“Hill-Foster”) did not file any objections. Rather, on December 30, 2014, she filed a Notice of Appeal in the Supreme Court from the “Magistrate’s Decision” of November 19, 2014 (see Appendix to Notice of Appeal).

In order to perfect an appeal to the Supreme Court, S.Ct. Prac.R. 2.2(A)(1)(a) requires a final “entry of the judgment being appealed.” However, the Court of Appeals has not issued a final decision or entry of judgment. Under Civ.R. 53(D)(4), the magistrate’s decision is not a final entry of judgment or a final appealable order. That rule provides that, “A magistrate’s decision is not effective unless adopted by the court.” In this case, the court of appeals has not ruled upon the magistrate’s decision. Therefore, Hill-Foster has not brought an appeal of a final appealable order or a final judgment entry of the court of appeals. Accordingly, this Court should dismiss Hill-Foster’s Notice of Appeal for lack of jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served, this 12th day of January, 2015, to:

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