

Court of Appeals, State of Michigan

ORDER

In re CLJ Minor

Docket No. 312778

LC No. 12-002901-AY

Patrick M. Meter
Presiding Judge

Donald S. Owens

Stephen L. Borrello
Judges

The Court orders that the motion to dismiss this appeal is DENIED. This Court was vested with jurisdiction over this appeal of right when appellant timely filed the claim of appeal and paid the corresponding entry fee on October 8, 2012. MCR 7.204(B); MCR 7.204(A)(1)(a). We note that, while failure to serve a copy of the claim of appeal on appellee as required by MCR 7.204(C)(3) would be a filing defect, it would not affect this Court's jurisdiction over this appeal. Further, the proof of service included in the claim of appeal reflects that it, and, by reasonable implication, the concurrently filed circuit court register of actions were properly served on appellee by service on his counsel in the circuit court. Also, the proof of service provided with the docketing statement reflects that it was mailed to appellee although at a different correctional facility than where he is currently located. In any event, any deficiency in serving copies of the claim of appeal, circuit court register of actions, or docketing statement on appellee does not warrant the harsh sanction of dismissal where he has been served with appellant's brief on appeal and has filed a timely response to it. In this regard, MCR 7.211(C)(2) cannot reasonably be considered to require the harsh sanction of dismissal for any failure by an appellant to perfectly file or pursue an appeal where the court rules specifically provide for other alternatives. See, e.g., MCR 7.201(B)(3).

The motion to extend time to file appellee's brief on appeal is DENIED as moot because that brief has been timely filed.

Appellee's motion to waive fees is GRANTED for this case only.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAR - 5 2013

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line. Below the line, the words "Chief Clerk" are printed.

Chief Clerk