

Iowa State Department
Of Education
(Cite as 21 D.o.E. App. Dec. 205)

<i>In re Michael Cooper II</i>	:	
	:	
Michael Cooper	:	ORDER CONFIRMING
	:	DISMISSAL
v.	:	
	:	
Iowa High School Athletic Association	:	[Adm. Doc. #4523]

A dismissal of the appeal submitted in the above-captioned matter was filed on September 25, 2002, citing two reasons for the dismissal: that the appeal was submitted beyond the ten-day deadline and that the appeal was not in the form of an affidavit.

On October 2, 2002, this agency received a letter dated September 29, 2002 from Michael Cooper I, which shall be treated as a motion for rehearing pursuant to Iowa Code section 17A.16 and 281 Iowa Administrative Code 6.20.

**I.
FINDINGS OF FACT**

The relevant facts remain unchanged. The Board of Control of the Iowa High School Athletic Association [“IHSAA”] convened its regular meeting on September 4, 2002. At that meeting, Mr. Cooper and two of his children (including Michael Cooper II) appeared before the Board to request relief for the younger Mr. Cooper from the “eight semester” rule, 281 IAC 36.15(2)(d). As a 5th year senior, Michael Cooper II has already attended high school for eight semesters. The family was asking for an additional year of athletic eligibility.

The Board of Control denied the request for an additional year of eligibility for Michael Cooper II to compete in interscholastic athletic competitions and contests. A written Findings of Fact, Conclusions of Law, and Ruling was prepared, dated September 4, 2002, and signed by Bernie Saggau, the Executive Director of the IHSAA. Attached to that written decision was a copy of the rule at 281 IAC 36.17, which specifies how an appeal from a decision of the Board of Control may be perfected to the Director of this Agency. Personnel of the IHSAA informed this agency, when called by an administrative assistant to the undersigned, that the decision of the Board of Control was mailed to the Coopers on September 4, 2002.

On or about September 24, 2002, this agency received a letter from Mr. Cooper I dated September 10, 2002. The letter, which was postmarked September 23, 2002, commences, “This letter is to serve as an appeal to the Director (Iowa Administrative Code 281-36.17)[.]” The entire original letter, 12 pages in length, is attached hereto as

Attachment A. The final page of Attachment A consists of a notarial acknowledgment dated September 23, 2002, with a signature line for a Kimberly Snyder, purported to be a notary public. However, neither Ms. Snyder nor any other notary public affixed her or his signature to this document, nor was the required notary seal affixed to Attachment A. In short, the appeal was not in the form of an affidavit.

In his letter dated September 29, 2002, the senior Mr. Cooper took issue with the mailing date of the written decision from the IHSAA. He included in his letter a photocopy of the envelope in which he stated the decision was mailed. The date of the postmark on the copy provided to this agency was illegible. In his letter of September 29, Mr. Cooper I explained that his son was anxious to read the contents of the envelope, and thus, opened it in a way that ripped the postmark. However, Mr. Cooper also stated in this letter that “it is still clear that the date is either September 9, 2002 or September 11, 2002.”

Regarding the lack of a notary signature and seal, Mr. Cooper stated that he “located a notary” on September 23 and “forwarded our appeal. I know nothing about the responsibilities of a notary, nor did I realize that all was not in order.” [Letter of September 29, 2002, from Michael Cooper I.]

II. CONCLUSIONS OF LAW

281Iowa Administrative Code 36.17 states, in pertinent part, as follows:

Appeals to Director. If the claimant is still dissatisfied, an appeal may be made in writing to the Director of Education by giving written notice of the appeal to the State Director of Education with a copy by registered mail to the executive officer of the governing organization. An appeal shall be in the form of an affidavit and shall be filed within ten days after the date of mailing of the decision of the governing organization. ...

Of the two reasons why Mr. Cooper’s attempted appeal was rejected by this agency, we shall address the affidavit requirement first. Mr. Cooper was aware of the requirement; the above rule was provided to him by the IHSAA and he acknowledged that he was reminded by an employee of this agency that the appeal must be notarized. It is axiomatic that ignorance of the law is no excuse. The Iowa Supreme Court has ruled that “excusable ignorance should be limited to situations where the violation relates to a technical regulation not widely known by the persons whose activities it affects.” *Smith Fertilizer and Grain Co. v. Wales*, 450 N.W.2d 814, 816 (Iowa 1990). Mr. Cooper’s statement in his letter of September 29, 2002, that on “September 23, 2002 I located a

notary, and forwarded our appeal” does not explain the complete absence of a notary’s seal and signature on his appeal letter. The failure to fulfill this appellate requirement cannot be excused.

Regarding the untimeliness of Mr. Cooper’s appeal, even if this agency accepts *arguendo* that the denial notice was not mailed by the IHSAA on September 4, 2002, Mr. Cooper cannot succeed on this issue for three reasons. First, in his letter of September 29, 2002, Mr. Cooper stated that he believed the postmark on the envelope from the IHSAA to be either September 9 or September 11, which would make the ten-day deadline for filing his appeal either September 19 or September 21. Next, Mr. Cooper stated that the notice of denial “probably arrived on Friday September 13.” If true, the latest date it could have been mailed would have been September 12, producing an appeal deadline of September 22, 2002. Most damaging of all, however, is the original appeal letter itself. Signed by Mr. Cooper and bearing a date of September 10, 2002, that letter begins, “Our household has suffered under the pall of depression *since receiving the denial notice from the Board of Control. We simply do not understand the decision.*” [Emphasis added.] For Mr. Cooper to write these words on September 10, the latest date the denial notice could have been mailed by the IHSAA would have been September 9, 2002.

The postmark of Mr. Cooper’s appeal dated September 10, 2002 (Attachment A) is September 23, 2002. This is beyond the ten-day deadline established by either scenario proposed by Mr. Cooper’s letter of September 29, scenarios which, in turn, are belied on the face of the original appeal letter which shows that Mr. Cooper had the IHSAA Board of Control’s decision in hand on September 10, 2002.

As noted in our Dismissal Order, appeal deadlines are mandatory and jurisdictional. *Foley v. Iowa Department of Transportation, Motor Vehicle Div.*, 362 N.W.2d 208, 210 (Iowa 1985).

III. DECISION

For the foregoing reasons, the relief requested by Michael Cooper I in his letter of September 29, 2002, is denied. The appeal is DENIED. [In his letter of September 29, 2002, Mr. Cooper expressed an intention to seek further recourse; accordingly, his attention is directed to Iowa Code section 17A.19.]

Date

Carol J. Greta, J.D.
Administrative Law Judge

So ordered.

Date

Ted Stilwill, Director
State Department of Education