

# Commonwealth of Kentucky

## Court of Appeals

NO. 2006-CA-000374-MR

JACQUELINE LEE

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE THOMAS B. WINE, JUDGE  
ACTION NO. 2005-CI-10117

COMMONWEALTH OF KENTUCKY,  
CABINET FOR HEATH AND FAMILY  
SERVICES; JEFFERSON COUNTY FAMILY  
COURT DIVISION SIX; JEFFERSON COUNTY  
FAMILY COURT DIVISION NINE

APPELLEES

OPINION  
AFFIRMING

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BEFORE: MOORE AND THOMPSON, JUDGES; GRAVES,<sup>1</sup> SENIOR JUDGE.

GRAVES, SENIOR JUDGE: Jacqueline Lee appeals from an order of the Jefferson

Circuit Court dismissing her claims against the appellees. The dismissal was based upon

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<sup>1</sup> Senior Judge J. William Graves sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

her failure to respond to the circuit court's order requiring her to file a more definite statement pursuant to CR<sup>2</sup> 12.05. We affirm.

#### FACTUAL AND PROCEDURAL BACKGROUND

On November 23, 2005, Lee filed, pro se, a one page pleading captioned “Opening Statement/Complaint.” This filing contained a list of four claims and a multi-part demand for relief. The filing contained few factual allegations and consisted primarily of various conclusions of law. Among those named as defendants were the appellees. The pro se filing is difficult to comprehend, but appears to seek relief premised upon her involvement with the Cabinet and the Jefferson Family Court in matters involving her children.

In light of the deficiencies contained in the filing, on December 12, 2005, the Cabinet for Health and Family Services filed a motion for a more definite statement pursuant to CR 12.05. On December 19, 2005, the circuit court entered an order granting the Cabinet's motion. The order allowed Lee 15 days to file her response (five more days than required by CR 12.05).

After Lee failed to timely file a response pursuant to the circuit court's order, on January 9, 2006, the Cabinet moved to dismiss the complaint pursuant to CR 41.02. On February 8, 2006, the circuit court entered an order granting the Cabinet's motion to dismiss on the basis that Lee had failed to comply with its order to file a more definite statement in support of her claims against the appellees. This appeal followed.

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<sup>2</sup> Kentucky Rules of Civil Procedure.

## DISCUSSION

As previously noted, subsequent to the filing of Lee's complaint, the Cabinet filed a motion for a more definite statement pursuant to CR 12.05. CR 12.05 provides as follows:

If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after service of notice of the order or within such time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

Lee's pleading was clearly vague or ambiguous such that a party could not reasonably be required to frame a responsive pleading. Accordingly, the circuit court did not abuse its discretion in granting the Cabinet's motion (we further note that the court granted Lee five days more than required under the rule).

CR 42.02(1) provides that “[f]or failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him.” Lee clearly failed to comply with the order of the circuit court requiring her to file a more definite statement.

A party ordered to file a more definite statement “does not fulfill his responsibility to the trial court by simply ignoring its order.” *Reisert v. Apple Valley Resort, Inc.*, 551 S.W.2d 256, 258. (Ky.App. 1977). “Ordinarily, the dismissal of the complaint would seem to be a harsh result, but in view of the utter neglect of appellant[]

in this case to make any sort of response to the court's order, we do not feel that the court below abused its discretion [in dismissing the complaint as to all defendants].” *Id.*

CONCLUSION

For the foregoing reasons the judgment of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Jacqueline Lee, pro se

BRIEF FOR APPELLEE CABINET FOR  
HEALTH AND FAMILY SERVICES:

Wendell H. Overcash

BRIEF FOR APPELLEES JEFFERSON  
COUNTY FAMILY COURT DIVISION  
SIX AND JEFFERSON COUNTY  
FAMILY COURT DIVISION NINE:

Stuart W. Cobb