

Deadlines in the Age of EDMS

Michelle Rabe
Assistant Attorney General

⇒ Returned Not Filed

Filing Status

Status: Returned Not Filed 11-19-2015:08:58:44 AM

Reason: Please fill out all of your client info (address) in the Service List. This kind of case is called Civil-Administrative Appeal too. Then re-submit. Thanks.

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Submitted By: Thompson, Shaun Aaron

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Official File Stamp:

Case Title: JACOBS V. IOWA DEPT. OF TRANSPORTATION

Court Case #:

Case Sub Type: CIVIL - OTHER ACTIONS

Court Location: Winnebago

Note: This filing will be removed from eFlex on 02-17-2016



PETITION

Petition.pdf



IN THE IOWA DISTRICT COURT FOR WINNEBAGO COUNTY

BLAKE JAMES JACOBS,)	
)	No. CVCV017669
Petitioner,)	
)	
vs.)	RULING ON RESPONDENT'S
)	PRE-ANSWER MOTION TO
IOWA DEPARTMENT OF)	DISMISS
TRANSPORTATION, MOTOR)	
VEHICLE DIVISION,)	
)	
Respondent.)	

BE IT REMEMBERED that on January 5, 2016, this matter came before the Court for a telephonic hearing on a pre-answer motion to dismiss filed by the Respondent on December 9, 2015.

The Petitioner was represented by Attorney Shaun Thompson of Forest City, Iowa. The Respondent Iowa Department of Transportation, Motor Vehicle Division, was represented by Attorney Michelle E. Rabe. A formal record of the hearing was waived by counsel, and it was requested that the Court review all written filings. The Court heard brief oral arguments from counsel.

The electronic history of this file shows that a Petition for Judicial Review was filed by Blake James Jacobs in the Iowa District Court for Winnebago County on November 19, 2015, at 9:53 a.m.

In response to that petition, an appearance by Attorney Michelle E. Rabe and a pre-answer motion to dismiss were filed on behalf of the Respondent on December 9, 2015. The motion to dismiss filed by the Respondent was resisted by the Petitioner on December 9, 2015. A hearing on the motion to dismiss was scheduled for January 5, 2016.

Based upon the court file, the Court makes the following findings of fact:

FINDINGS OF FACT

The petition filed on November 19, 2015, sought judicial review of an interagency appeal decision. This interagency appeal decision was issued by Iowa DOT Director Designee Mike Raab on October 19, 2015. The appeal decision was precipitated by a contested case decided by Administrative Law Judge Kathleen O'Neill on September 9, 2015. (The appeal decision upheld revocation of the Defendant's driving privileges.)

Neither the Petitioner or the Respondent dispute that the final interagency appeal decision was filed on October 19, 2015.

The issue in controversy is whether or not the Petitioner, Blake James Jacobs, filed his Petition for Judicial Review within 30 days of that decision.

In the resistance to the motion to dismiss, the Petitioner included three attachments, contained in the court file. Attachment 1 is a record of original submission of the Petition for Judicial Review; Attachment 2 is an affidavit of paralegal Chris Nygard; and Attachment 3 is a copy of the final administrative action taken by the agency in this matter.

Based upon the information set out in Attachments 1 and 2, the Court finds that on November 18, 2015, at 12:37:39 p.m., paralegal Chris Nygard submitted the petition to the Clerk of District Court for filing. The petition was noted "returned not filed 11-19-2015: 08:58:44 a.m." with a reason for return stated by the clerk "Please fill out all of your client info (address) in the Service List. This kind of case is called Civil-Administrative Appeal too. Then re-submit. Thanks."

The affidavit of Chris Nygard indicates that on November 19, 2015, an identical petition to the earlier petition was filed (apparently with corrected and/or supplemented information).

On November 19, 2015, the Clerk of District Court approved the filing, and the Petition for Judicial Review was file-stamped as "E-FILED 2015 NOV 19 9:53 A.M. WINNEBAGO-CLERK OF DISTRICT COURT."

The Court makes further findings of fact, as necessary, in its analysis below:

ANALYSIS

There is a requirement that the Petition for Judicial Review be filed within 30 days of the administrative decision, as set forth in Iowa Code Section 17A(19)(3). This section states, in part: "If a party does not file an application under Section 17A.16(2), for rehearing, the petition must be filed within 30 days after the issuance of the agency's final decision in that contested case. . . ."

A timely petition for judicial review from an administrative decision is a jurisdictional prerequisite. *Sioux City Brick & Tile Co. v. Employment Appeal Bd.*, 449 N.W.2d 634, 638 (Iowa 1989), and *Foley v. Iowa Dept. of Transp.*, 362 N.W.2d 208, 210 (Iowa 1985). If the district court is without authority to hear the case because the petition for judicial review was untimely, the action must be dismissed. *Sharp v. Iowa Dept. of Job Serv.*, 492 N.W.2d 668, 669 (Iowa 1992). Judicial review of an administrative agency action is a special proceeding. *Anderson v. W. Hodgeman & Sons, Inc.*, 524 N.W.2d 418, 421 (Iowa 1994). It is in all respects dependent upon the statutes which authorize its pursuit. Since review of agency action is purely statutory, the procedure prescribed by statute must be followed in seeking the review, especially

those particulars which are jurisdictional or mandatory. *Richards v. Iowa State Commerce Commission*, 270 N.W.2d 616, 619 (Iowa 1978).

The Petitioner does not really dispute that the 30-day time frame is jurisdictional. Again, the question in this case boils down to when the Petition for Judicial Review was deemed filed with the Winnebago County District Court.

The Iowa Supreme Court has recently (December 11, 2015) filed an opinion which discusses related issues. This case is *Concerned Citizens of Southeast Polk School District and Jessmin Smith, Appellants, v. City Development Board of the State of Iowa, Appellee, and City of Pleasant Hill, Iowa, Intervenor* (Supreme Court Number 14-1317). This case provides an extensive analysis of when a court order is deemed filed in the electronic document management system in the Iowa court system, for purposes of calculating the 30-day time frame to appeal that order.

While the issue in the above case was when a court order was deemed filed, it stands to reason that the same analysis may be used to determine when a document is deemed filed by a litigant. The Iowa Supreme Court also discussed the meaning of the interim rules pertaining to the use of electronic filing that were adopted in January 2007 and have been revised from time to time as EDMS has been implemented. The Court also noted at page 4 that "Generally, the electronic filing rules sought to continue the court practices that govern paper filing, not to change them," referencing Interim Iowa Court Rule 16.308.

At page 5 of the opinion, the Court wrote "Our Rules of Appellate Procedure require a notice of appeal to be filed within 30 days after the filing of the final order or judgment. Iowa Rule of Appellate Procedure 6.101(1)(b). This rule captures the long-

standing practice in Iowa and remains the rule today. Consequently, the period of time to appeal a judgment, order, or decree in Iowa commences on the date it was properly entered with the Clerk of Court. *Lau v. City of Oelwein*, 336 N.W.2d 202, 204 (Iowa 1983) (holding the period of appeal from a small claims case 'would commence on the date the judgment is made final by being properly entered')."

It was further observed that once a judgment, order, or decree is properly entered with the Clerk, the rules have also historically required the Clerk to "promptly mail or deliver notice of such entry, or copy thereof, to each party appearing, or to one of the parties' attorneys." After the transition to EDMS, this process was continued by the electronic notice of the entry of the order or judgment being generated and provided to the parties.

At page 7 and 8 of the *Concerned Citizens* ruling, the Court also discusses Interim Iowa Court Rule 16.311(1)(a). It is noted "Thus, the last sentence of Interim Rule 16.311(1)(a) identifies an official filing date." In relevant part, that rule states "The notice of electronic filing will record the date and time of the filing of the document in local time for the state of Iowa. This will be the official filing date and time of the document regardless of when the filer actually transmitted the document."

The Court further goes on to state "This is a date that needs to be clear and unmistakable in the law so that all litigants and attorneys know the parameters of the jurisdictional time period to pursue an appeal." In discussing any potential ambiguity, the majority opinion indicates that each order filed in the system receives an electronic filing stamp (per Interim Rule 16.308), and that this stamp identifies the date and time the order was filed, and it must be visible when the document is printed and viewed

online. Without the electronic filing stamp, a document is not officially filed. The Court notes that these rules, and others, all reveal that the process of electronic filing for the purposes of identifying the date of filing is geared to the filing of the order not the date of the notice of filing.

Iowa Code Section 602.8102(9) states that a pleading is treated under the law as filed when received as noted on the pleading. This would seem to provide statutory authority that the file-stamp date on the petition would be deemed as the filing date of the petition.

The Petitioner in this case, however, emphasizes Interim Rule 16.309(3)(c). This rule provides that the Petitioner keep a record of the notice generated by the electronic management system to verify the date and time of the original submission. This electronic notice is attached to the resistance. The Petitioner urges that this provision attaches some significance to the date and time of the original submission. However, this Court cannot identify any reason to give the date and time of the original submission any priority over the file-stamp placed on the petition. Again, without the electronic filing stamp, it seems a document is not officially filed.

Based upon the discussion in the *Concerned Citizens* case (which does acknowledge some areas of ambiguity in the interim rules), this Court believes that the persuasive argument is that the Petition for Judicial Review in this case was filed officially and properly on November 19, 2015, at 9:53 a.m.

There are no extenuating circumstances involved here such as weekends or holidays. November 18, 2015, was a Wednesday and the 19th was a Thursday, the Clerk's Office being open for business both days during regular hours. There is no

indication here that the Clerk of Court was not expeditious in reviewing the filing. No argument is being made that the Clerk of Court improperly rejected the filing on November 18, 2015, nor is there evidence in the record to support in any way that the filing was improperly rejected. After corrections were made by the filer, the Clerk promptly accepted the filing on November 19, 2015, at 9:53 a.m., and the official file-stamp was electronically affixed at that time.

CONCLUSIONS OF LAW AND RULING

The Court finds and concludes that the Petition for Judicial Review in this matter was officially and properly filed with the Clerk of Court on November 19, 2015, at 9:53 a.m. Unfortunately, for the Petitioner, this date falls outside of the 30-day time frame in which the Court has jurisdiction to hear the appeal. Therefore, the Respondent's motion to dismiss the Petition for Judicial Review should be granted.

IT IS THEREFORE ORDERED that the Petition for Judicial Review in this matter is dismissed, as requested by the Respondent's Iowa Department of Transportation, Motor Vehicle Division's motion to dismiss. Court costs are taxed to the Petitioner. Thus, the Court will not establish a briefing schedule or enter an order for stay as requested by the Respondent and Petitioner, respectively.

Clerk shall furnish copies to:
Attorney Shaun A. Thompson
Attorney Michelle E. Rabe



State of Iowa Courts

Type: OTHER ORDER

Case Number CVCV017669
Case Title JACOBS V. IOWA DEPT. OF TRANSPORTATION

So Ordered

A handwritten signature in cursive script that reads "Gregg R. Rosenblatt".

Gregg R. Rosenblatt, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2016-01-07 16:17:40 [page 8 of 8]

IN THE IOWA DISTRICT COURT FOR WINNEBAGO COUNTY

BLAKE JAMES JACOBS,)	
)	No. CVCV017669
Petitioner,)	
)	
vs.)	RULING ON PETITIONER'S
)	1.904 MOTION
IOWA DEPARTMENT OF)	
TRANSPORTATION, MOTOR)	
VEHICLE DIVISION,)	
)	
Respondent.)	

On January 7, 2016, the Court filed a ruling on the Respondent's Pre-Answer Motion to Dismiss. The Respondent's Motion to Dismiss was granted.

On January 8, 2016, the Petitioner filed a timely 1.904 (2) motion.

The points raised in the Petitioner's 1.904 motion are essentially the same as those argued regarding the motion.

In denying this motion, the Court relies on the reasons set out in the ruling filed on January 7, 2016.

In addition, the Court now notes for purposes of further discussion that on January 13, 2016, the Iowa Court of Appeals entered a ruling in *Ewing Concrete, LLC v. Rochon Corporation of Iowa, Waukee Community School District, and Travelers Indemnity Co.*, No. 14-1628. In that case, the majority made an exception "under the unique and specific circumstances of this case," noting "fairness requires us to reverse the district court and deem the petition to have been filed on April 30, 2014."

In this case, there are no extenuating circumstances. The filing was submitted on the final day of a deadline, and the bottom line is the filer did not take measures to ensure that the petition would be accepted and file-stamped on that date.

The fact that the original submission was rejected on day 31 is not particularly relevant in this case, the facts are simply that the submission was not file-stamped on the 30th day, through no fault of the clerk or EDMS. When facing a deadline, the filer has the responsibility to ensure that the filing is accepted and file-stamped before the deadline has passed.

For these reasons, the Motion to Enlarge or Amend is denied.

Clerk shall furnish copies to:
Counsel of record

Chapter 16 Rules Pertaining to the use of the Electronic Document Management System.

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governmental agencies will be allowed to file documents and transfer data by a court-approved alternative method of transferring the document or data from the agency's electronic system to the court's electronic document management system. This alternative method for filing or presenting documents will enable correct routing and docket entry of the documents. The alternative method will also allow for requests for expedited relief and requests to seal documents where appropriate.

16.307(2) *Filing.* The electronic transmission of a document to the electronic document management system consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing constitutes filing of the document. A copy of the notice of electronic filing will be provided to nonregistered filers upon request to the clerk of court.

16.307(3) *Emailing or faxing documents does not constitute filing.* Emailing or faxing a document to the clerk or to the court will not generate a notice of electronic filing and does not constitute "filing" of the document.

Rule 16.308 Electronic file stamp. Each electronically filed document shall receive an electronic file stamp consistent with the notice of electronic filing. The file stamp shall merge with the electronic document and be visible when the document is printed and viewed on-line. Electronic documents are not officially filed without the electronic filing stamp. Filings so endorsed shall have

the same force and effect as documents time stamped in a nonelectronic manner.

16.309 Docket entries.

16.309(1) *Docket text.* A registered filer electronically filing a document will be required to designate an accurate docket entry for the document by using one of the docket event categories listed on the cover sheet.

16.309(2) *Court responsibility.* The court is responsible for the accuracy of all docket entries.

16.309(3) *Correcting docket entries.*

a. Clerk to correct docket entries. Once a document is submitted into the electronic document management system, only the clerk may make corrections to the docket. Any changes to the docket will be noted in the docket.

b. Errors discovered by filer. If a filer discovers an error in the electronic filing or docketing of a document, the filer shall contact the clerk as soon as possible. When contacting the clerk, the filer shall have available the case number of the document that was filed or docketed erroneously. The clerk will research the error and advise the filing party how the error will be addressed by the clerk and what further action by the filer, if any, is required to address the error. A filer shall not refile or attempt to refile a document that has been erroneously filed or docketed unless specifically directed to do so by the clerk.

c. Errors discovered by clerk. If errors in the filing or

docketing of a document are discovered by the clerk, the clerk will ordinarily notify the filer of the error and advise the filer of what further action, if any, is required to address the error. The clerk may return the submission with an explanation of the error and instructions to correct the filing. In such instances, it shall be the responsibility of the filer to keep a record of the notice generated by the electronic filing management system to verify the date and time of the original submission. If the error is a minor one, the clerk may, with or without notifying the parties, either correct or disregard the error.

Rule 16.310 Payment of fees.

16.310(1) All applicable fees shall be paid by court approved electronic means unless otherwise allowed.

16.310(2) Applications to proceed without the prepayment of filing fees shall be supported by an affidavit, *see* Iowa Code section 610.1. The application and supporting affidavit may be submitted to the clerk nonelectronically.

Rule 16.311 Date and time of filing, deadlines, and system unavailability.

16.311(1) *Date and time of filing, deadlines.*

a. An electronic filing can be made any day of the week, including holidays and weekends, and any time of the day the electronic document management system is available. However, the expanded availability of electronic filing shall not affect the

provisions for extension of deadlines under the criteria set forth in Iowa Code section 4.1(34). When a document is filed using the electronic document management system, the system will generate a notice of electronic filing. The notice of electronic filing will record the date and time of the filing of the document in local time for the State of Iowa. This will be the official filing date and time of the document regardless of when the filer actually transmitted the document.

b. A document is timely filed if it is filed before midnight on the date the filing is due.

c. If there is a deadline established in these rules that is different from a deadline established by a court order in a particular case, the deadline established in the court order controls.

d. As the electronic document management system may not always be available due to system maintenance or technical difficulties, filers should not wait until the last moment to file documents electronically.

16.311(2) *System unavailable.*

a. Some deadlines are jurisdictional and cannot be extended. The filer must ensure, by whatever means necessary, a document is timely filed to comply with jurisdictional deadlines. A technical failure, including a failure of the electronic document management system, will not excuse a failure to comply with a jurisdictional deadline.

b. If a filer is unable to meet a nonjurisdictional deadline

due to a technical failure, the filer must file the document using the soonest available electronic or nonelectronic means. The filing will not be considered untimely unless determined to be untimely by the court after an opportunity to be heard.

16.311(3) *Notice of system downtime.*

a. Anticipated downtime. When the electronic document management system will not be available due to scheduled maintenance, registered filers and users will be notified by email and a notice will be posted on the court's website of the date, time, and anticipated length of the unavailability.

b. Unexpected downtime. When the electronic document management system is unexpectedly unable to accept filings continuously or intermittently for more than one hour, registered filers will be notified of the problem by email or by the posting of a notice of the problem on the court's website.

Rule 16.312 Format of electronic documents.

16.312(1) *Generally.* All documents shall be formatted in accordance with the applicable rules governing formatting of paper documents. *See, e.g.,* Iowa Rs. Civ. P. 1.411, 1.412; Iowa Rs. App. P. 6.803(2), 6.903, 6.905(3), 6.1002. A document must be converted to a portable document format (".pdf") before the document is filed in the electronic document management system. The registered filer shall ensure that the filing is an accurate representation of the document and is complete and readable.

General Commentary to Electronic Filing Rules

or whether the document is being filed in a new case or an existing case. It is critical that a cover sheet be properly completed by the filer. Information provided on the cover sheet will ensure the document is properly routed through the system. For example, proper completion of the cover sheet will, where appropriate, ensure the document is properly routed to the correct electronic file, create a correct docket entry for the document, inform the court that expedited relief is being requested, and ensure a document is properly sealed. A filer who completes an electronic cover sheet for a new civil case will not need to file the cover sheet required by Iowa Rule of Civil Procedure 1.301(2).

Errors in the submission of documents. Rule 16.309(3)(c) deals with instances where the filer submits documents that cannot be correctly filed or docketed. The clerk may find it necessary to return a submission to the filer for correction when, for example, a document is scanned upside down or sideways, is scanned in such a way that the file stamp cannot be applied, is improperly attached to other documents, or is submitted under the wrong docket entry so that the correct fees, signatures, or other configuration cannot be processed by the electronic document management system. It will be the filer's responsibility to keep a record of the original submission date and time, as well as the reason for the return of the filing, contained in the system notices e-mailed in response to the submission. Those notices include the "Received Notice" and the "Rejection Notice" sent by e-mail to the filer, as well as the Filing Status Reports available through the Filer's Interface under eFile/Filing Status.

Electronic filing and jurisdictional deadlines. Use of the electronic document management system provides a number of benefits to filers. One benefit is the opportunity to file documents outside of normal business hours. Rule 16.311(1)(b) states that a document filed before midnight on the date the filing is due is considered timely filed. A filer is cautioned, however, not to wait until the last moment to electronically file documents as the electronic document management system may not always be available. Just as a jurisdictional deadline cannot be extended for a filer who, due to vehicle or traffic problems, arrives at the courthouse moments after the clerk's office has closed, jurisdictional deadlines cannot be extended for the filer who encounters system or other technical difficulties moments before a midnight filing deadline.

Governmental agency filings. Certain governmental agencies will be allowed to file documents and transfer data by a court-approved alternative method of transferring the document or data from the agency's electronic system to the court's electronic document management system.

Multiple-case filing option. Certain governmental agencies and lawyers licensed to practice law in Iowa may file a document or documents in multiple cases in a single filing.

Retention of paper documents. Except in very limited situations delineated by these rules, the court will not retain non-electronic documents or other items as part of the court file. The rules contemplate