

HAGNER JUDY 002079 041901 CT APP

APPEAL from an order of the circuit court for Milwaukee County: FRANCIS T. WASIELEWSKI, Judge. *Affirmed.*

Before Dykman, P.J., Deininger and Lundsten, JJ.

¶1. PERCURIAM. Judy Hagner, *pro se*, appeals from the trial court's order dismissing her action against the Tax Appeals Commission, Tax Appeals Commissioner Mark Musolf, and the Department of Revenue (DOR). Hagner asked the trial court to vacate three decisions made by the commission and claimed that she was owed a tax refund of approximately \$5,000,000. The trial court dismissed because Hagner had failed to serve the DOR.

¶2. A person aggrieved by a decision of the commission is entitled to judicial review, but "[a] copy of the petition [for review] shall be served personally or by certified mail ... upon each party who appeared before the [commission]." Wis. Stat. §227.53(1)(c) (1999-2000).¹ This requirement is mandatory. *Weisensel v. DHSS*, 179 Wis. 2d 637, 643, 508 N.W.2d 33 (Ct. App. 1993).

¶3. The trial court concluded that it did not have subject matter jurisdiction because Hagner had failed to serve the DOR, one of the parties who appeared before the commission. Hagner submitted four affidavits of service to the trial court. Three affidavits showed service on the commission. One showed service on the attorney general's office. Because Hagner did not serve the DOR, the trial court properly concluded that it lacked subject matter jurisdiction. *See id.* (failing to comply with Wis. Stat. §227.53(1) deprives the trial court of subject matter jurisdiction).

¶4. Even if the trial court lacked subject matter jurisdiction over her appeals from the Tax Appeals Commission, Hagner contends that the trial court had jurisdiction over this case as an original action because her claim was also based in "civil tort personal injury." If the trial court had so interpreted Hagner's action, it would have been dismissed nevertheless. A civil tort claim against the commission is barred by the doctrine of sovereign immunity because Hagner did not comply with the notice of claim statute. *See* Wis. Stat. §893.82(2m) and(3).

By the Court. -Order affirmed.

This opinion will not be published. *See* Wis. Stat. Rule 809.23(1)(b)5.

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

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