

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF TAX APPEALS
FILE NO. K13-R-23**

HELEN Y. CAMPBELL

APPELLANT

v.

ORDER NO. K-24087

PERRY COUNTY CLERK, HAVEN KING

APPELLEE

This case is before this Board as a matter of summary disposition. The Appellant has brought this appeal to the Board pursuant to KRS 134.551 which concerns refunds to purchasers of certificates of delinquency and this Board's subject matter jurisdiction is limited to, and based solely upon this statute, which provides in pertinent part as follows:

2(d) If the county clerk denies the application for refund... the third-party purchaser may appeal the decision of the county clerk... to the Kentucky Board of Tax Appeals.

The Appellant, a third-party payer of property taxes from 2003-2010 for the Mann Campbell Estate property, filed an application with the County Clerk pursuant to KRS 134.551 on the basis that she did not get reimbursed from the proceeds of the sale of the property in question by the Perry Circuit Court on June 20, 2012 and she seeks a refund.

As the County Clerk points out in his filing with this Board, the taxes which Appellant paid from 2003-2008 were paid before the taxes became delinquent, so KRS 134.551 is not even applicable to these tax years. Any issues pertaining to the payment of these taxes by the Appellant are not properly before this Board for a decision and the portion of the appeal

pertaining to those years is hereby dismissed without prejudice. This Board has no authority to address or to make a ruling as to the refund of taxes paid for years 2003-2009, other than to conclude that the jurisdictional statute, KRS 134.551 does not apply to those taxes paid and the Board has no authority to review the validity of a refund claim for those years.

The Appellant did purchase two certificates of delinquency for tax year 2010 and the refund claim for those taxes paid are properly before this Board pursuant to KRS 134.551. The clerk sets forth the following information about those delinquent bills:

- 1) 2010 tax bill, number 2484, in the name of Mann Campbell Estate was purchased on August 18, 2011. The amount of the purchase was \$272.46. This lien was recorded on August 18, 2011 in Delinquent Tax Lien Book 14, Page 62.
- 2) 2010 tax bill, number 2530, in the name of Nick Campbell was purchased on August 18, 2011. The amount of the purchase was \$234.22. This lien was recorded on August 18, 2011 in Delinquent Tax Book 14, Page 65.

Pursuant to the statute, in considering the refund claim, the clerk had to determine whether the certificates of delinquency should not have been sold to the Appellant, “because on the date of the annual sale, the certificate of delinquency met the requirements for inclusion on the protected list pursuant to KRS 134.504(10).” See KRS 134.551(2)(a) Section 2.

The clerk has ruled that these two certificates did not meet the requirements for inclusion on the protected list. KRS 134.504(10) provides that in order to be considered to be on the protected list, the bills have to be under a payment agreement; cannot be involved in litigation initiated by the County Attorney; or, be involved in a bankruptcy when he sold them to the Appellant on August 18, 2011.

The property in question was sold by the Perry County Master Commissioner on March 23, 2012 and the Appellant was not reimbursed from the proceeds from the sale. When she objected to the distribution, the Perry Circuit Court denied her objections and it does not appear from this record that the Appellant timely appealed from that decision denying her reimbursement.

This Board finds that the Clerk's denial of a refund claim pursuant to KRS 134.551 (2)(a) Section 2, was proper based upon the information provided in the pleadings, which is not disputed by the Appellant. While the property in question was the subject of a sale on March 23, 2012, the certificates of delinquency did not meet the narrow requirements for inclusion on a protected list as is required in order for relief to be granted under KRS 134.551. The county clerk correctly points out that the sale by the Master Commissioner was not "litigation initiated by the county attorney or in which the county attorney responds or files an answer," as is required by KRS 134.504 (10).

The clerk's denial of the refund pursuant to KRS 134.551 was proper. This is a final and appealable order. All final orders of this agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. The Board's statute, KRS 131.370(1), provides that the Circuit Court of venue for any party aggrieved by any final order of the Kentucky Board of Tax Appeals, except on appeals from a county board of assessment appeals, is the Franklin Circuit Court or the Circuit Court of the county in which the party aggrieved resides or conducts his place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the

outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

DATE OF ORDER
AND MAILING: September 24, 2013

KENTUCKY BOARD OF TAX APPEALS
FULL BOARD CONCURRING

CECIL DUNN
CHAIR