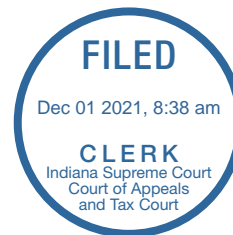


MEMORANDUM DECISION

Pursuant to [Ind. Appellate Rule 65\(D\)](#), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

J.F.,
Appellant-Petitioner,

v.

Review Board of the Indiana
Department of Workforce
Development,
Appellee-Respondent.

December 1, 2021

Court of Appeals Case No.
21A-EX-998

Appeal from the Indiana
Department of Workforce
Development

The Honorable Natalya Cross,
Administrative Law Judge

Trial Court Cause No.
21-R-1752

Mathias, Judge.

- [1] J.F. appeals pro se the decision of the Review Board of the Indiana Department of Workforce Development (“the Review Board”) concluding that he was not

entitled to pandemic unemployment assistance benefits. J.F. argues that the Review Board's decision is not supported by substantial evidence.

[2] We affirm.

Facts and Procedural History

[3] J.F. worked for DoorDash until March 5, 2020. J.F. quit working for DoorDash because his car was totaled. J.F. filed a claim for unemployment benefits on the date he quit working for DoorDash. The claims investigator denied his claim after determining that J.F. was otherwise able and available for work.

[4] J.F. also worked for Piazza Produce until October 2020. Piazza fired J.F. after he walked off the job because he was fatigued. Shortly thereafter, J.F. was diagnosed with depression, bipolar disorder, and schizophrenia. J.F. was hospitalized for several weeks and received medical treatment for his mental illnesses.

[5] On some date prior to January 6, 2021, J.F. filed a claim for pandemic unemployment assistance benefits with the Indiana Department of Workforce Development.¹ In 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act,² that established pandemic

¹ J.F. did not include a copy of his claim in the record on appeal.

² The CARES Act is codified as [15 U.S.C. § 9001](#) et seq.

unemployment assistance benefits for individuals who lost their jobs as a result of the pandemic and did not qualify for traditional unemployment benefits.

- [6] On January 6, 2021, the claims investigator denied J.F.’s claim after finding that J.F. “does not meet the necessary requirements to be eligible to receive [pandemic unemployment assistance] effective week ending 03/28/2020 because claimant was not unemployed because of [COVID].” Ex. Vol. p. 5.
- [7] J.F. appealed the claims investigator’s determination. On March 4, 2021, an administrative law judge (“ALJ”) conducted a telephonic hearing to determine whether J.F. was entitled to pandemic unemployment assistance benefits. The Department of Workforce Development did not participate in the hearing.
- [8] J.F. and his mother testified at the hearing. And the following exchange occurred at the hearing:

ALJ: . . . I wanna know also, if the pandemic did not exist, would you have otherwise been able and available for work?

J.F.: Yes, ma’am. I didn’t know that the pandemic was going on until I came down with my delusionary actions at work, and I got terminated. That’s when I found out about the pandemic because we weren’t wearing masks at work, and it was November already.

Tr. pp. 10–11.

- [9] The ALJ determined that J.F. was not eligible for pandemic unemployment assistance benefits. She concluded that J.F. was not unemployed as a direct result of COVID-19. The ALJ found that J.F. “left employment due to fatigue,

depression, bipolar disorder, and schizophrenia and car trouble. There is no evidence on the record that established that Claimant was unemployed directly as a cause of COVID-19.” Ex. Vol. p. 18.

[10] J.F. appealed the ALJ’s finding that he is not a “covered individual” under the CARES Act. The Review Board adopted the ALJ’s findings and affirmed the ALJ’s decision on May 20, 2021.

[11] J.F. appeals pro se.³

Standard of Review

The Indiana Unemployment Compensation Act provides that “[a]ny decision of the [R]eview [B]oard shall be conclusive and binding as to all questions of fact.” [Ind. Code § 22-4-17-12\(a\) \(2021\)](#). Review Board decisions may be challenged as contrary to law, in which case we examine the sufficiency of the facts found to sustain the decision and the sufficiency of the evidence to sustain the findings of facts. [I.C. § 22-4-17-12\(f\)](#). Under this standard, we review (1) findings of basic fact to ensure “substantial evidence” supports those findings,

³ “It is well settled that pro se litigants are held to the same legal standards as licensed attorneys.” [Lowrance v. State](#), 64 N.E.3d 935, 938 (Ind. Ct. App. 2016), *trans. denied*. “This means that pro se litigants are bound to follow the established rules of procedure and must be prepared to accept the consequences of their failure to do so.” *Id.* “These consequences include waiver for failure to present cogent argument on appeal.” [Basic v. Amouri](#), 58 N.E.3d 980, 984 (Ind. Ct. App. 2016).

J.F.’s appellate brief contains numerous factual statements that are not supported by evidence in the record on appeal. And J.F. included documents in his appendix that were not admitted in the proceedings below. We will not consider any evidence that is not properly included in the record on appeal.

(2) conclusions of law for correctness, and (3) inferences or conclusions from basic facts, often called “mixed questions of law and fact,” for reasonableness. *Q.D.-A., Inc. v. Ind. Dep’t of Workforce Dev.*, 114 N.E.3d 840, 845 (Ind. 2019).

Discussion and Decision

[12] J.F. argues that the COVID-19 pandemic contributed to his mental breakdown, and he quit his job as a result of his mental illness; therefore, he is entitled to pandemic unemployment assistance benefits. But J.F.’s argument is not supported by citation to the record on appeal or citation to any authority. In addition, J.F.’s appellate brief does not comply with [Indiana Appellate Rule 46\(A\)](#). His brief does not contain a statement of the issues, statement of the case, statement of the facts, or summary of the argument. Accordingly, we agree with the Review Board that J.F. waived his challenge to the Review Board’s decision denying his request for pandemic unemployment assistance. *See Ind. Appellate Rule 46(A)(8)(a)*.

[13] Waiver notwithstanding, we observe that substantial evidence supports the Board’s decision that J.F. does not qualify for pandemic unemployment assistance under the CARES Act. Under the Act, a “covered individual” is an individual who

i) is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under [section 9025](#) of this title, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law

or pandemic emergency unemployment compensation under [section 9025](#) of this title;

(ii) provides self-certification that the individual—

(I) is otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work because--

(aa) the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

(bb) a member of the individual's household has been diagnosed with COVID-19;

(cc) the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;

(dd) a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

(ee) the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;

(ff) the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

(gg) the individual was scheduled to commence employment and does not have a job or is unable to reach

the job as a direct result of the COVID-19 public health emergency;

(hh) the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;

(ii) the individual has to quit his or her job as a direct result of COVID-19;

(jj) the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or

(kk) the individual meets any additional criteria established by the Secretary for unemployment assistance under this section; or

(II) is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under [section 9025](#) of this title, and meets the requirements of subclause (I)[.]

15. U.S.C. 9021(a)(3)(A).

[14] J.F. does not meet any of the criteria listed in subsections aa through kk. He did not present any evidence that he is unemployed or unable to work due to COVID-19. In fact, J.F. stated that he did not know about the pandemic until November 2020, after he had been fired from Piazza. Tr. p. 11. And J.F.'s argument that the COVID-19 pandemic contributed to his mental breakdown is not supported by any evidence in the record on appeal.

[15] For all of those reasons, we conclude that the Review Board's decision that J.F. was not a "covered individual" under the CARES Act and was not entitled to

pandemic unemployment assistance benefits is supported by substantial evidence.

[16] **Affirmed.**

Bailey, J., and Altice, J., concur.