

No. 1-13-0966

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CALVETTE WALKER,)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Cook County.
)	
v.)	No. 12 CH 7102
)	
CHICAGO HOUSING AUTHORITY,)	Honorable
)	Mary L. Mikva,
Respondent-Appellee.)	Judge Presiding.

JUSTICE MASON delivered the judgment of the court.
Presiding Justice Hyman and Justice Neville concurred in the judgment.

O R D E R

- ¶ 1 *Held:* The judgment of the circuit court affirming the Chicago Housing Authority's termination of plaintiff from the federally subsidized housing choice voucher program affirmed when *pro se* plaintiff raises no errors on appeal and only asks that violations of the program rules be excused.
- ¶ 2 *Pro se* petitioner Calvette Walker appeals from an order of the circuit court of Cook County denying her *pro se* petition for a writ of *certiorari*. On appeal, Walker contests the decision of respondent, the Chicago Housing Authority (CHA), to terminate her participation in

the Housing Choice Voucher (HCV) Program of the United States Department of Housing and Urban Development. Specifically, Walker seeks to excuse past violations of HCV program rules and promises that if she is readmitted to the program no future violations will occur. We affirm.

¶ 3 The facts, as gleaned from the pleadings filed in the circuit court, show that the CHA is the principal corporation that administers the HCV program in Chicago. As part of this program, the CHA pays housing rental subsidies for eligible families. Participants in the HCV program must abide by the program's "family obligations," which require, *inter alia*, that no family member engage in any drug-related criminal activity or violent criminal activity. The failure to comply with these obligations results in termination from the HCV program.

¶ 4 When she was accepted into the program in 2003, Walker agreed in writing on behalf of herself and family members residing with her, to abide by the program's family obligations. Each time her voucher was renewed, Walker reiterated her agreement to those obligations. Further, from the inception of her participation in the program and each time her voucher was renewed, Walker listed her son, Stephen, as a member of her household.

¶ 5 Among the obligations Walker agreed to on behalf of herself and each family member living in her household was to refrain from engaging in "drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right of peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises." In November 2010, Walker received a letter indicating that she was being terminated from the program effective December 31, 2010, because she and Stephen had been arrested and convicted of criminal offenses. Walker appealed this decision and a hearing was held on July 11, 2011. Walker was represented by counsel at the hearing.

¶ 6 At the hearing, the CHA introduced documentary evidence establishing that Stephen was listed as a household member in Walker's HCV program paperwork. A screening report, prepared after Walker requested "moving papers" to transfer her voucher to another subsidized apartment, indicated that Walker had been arrested in March 2005 and November 2009. Although the charge relating to the 2005 arrest was dismissed, a certified statement of disposition indicated that Walker entered a plea of guilty to simple assault on February 16, 2010, and was sentenced to supervision. The latter charge arose out of an altercation between Walker and other residents of her building.

¶ 7 With regard to Stephen, evidence showed that he had been found guilty of, among other offenses, domestic assault, drug possession and making terrorist threats. These convictions occurred in Hennepin County, Minnesota, at a time when Stephen was listed as a family member on Walker's voucher. According to the evidence presented at the hearing, Stephen's most recent arrests occurred in Cook County in August 2010 and January 2011.

¶ 8 Walker testified that Stephen had never been arrested at her home and that she did not know what Stephen did when he was outside the home. Walker asserted that she did not learn about Stephen's arrests until December 2010, and at that time she asked to remove Stephen from her HCV program paperwork. After losing her housing voucher, Walker and her two children became homeless. Walker believed that it was wrong that she should lose her voucher because of Stephen's actions and asserted that going forward Stephen would no longer live with her. With regard to her own arrests, Walker testified that she was the victim in each case, although she admitted that she had "words" with the other individuals involved in each instance. Walker

testified that she only entered a guilty plea in the assault case because her attorney told her she was going to receive supervision and then it was going to be off her record.

¶ 9 On July 29, 2011, the hearing officer upheld the termination of Walker from the HCV program based upon Walker's and Stephen's arrests and convictions, which were violations of the program's family obligations requiring program participants to refrain from drug-related and violent criminal activity. The hearing officer noted Walker's claimed lack of knowledge regarding her son's numerous arrests and convictions, but did not find Walker's testimony credible. With regard to Walker's arrests, the hearing officer observed that although Walker characterized herself as the victim in both cases, the common denominator in both incidents was Walker. The decision informed Walker that if she wished to contest the termination, she was required to file a petition for a writ of *certiorari* in the circuit court within six months of the date of the decision.

¶ 10 On February 28, 2012, seven months after the administrative decision, Walker filed a *pro se* petition for a writ of *certiorari* in the circuit court. Following a hearing, the court denied Walker's petition. This appeal followed.

¶ 11 Initially, this court notes that Walker's brief does not contain citation to either the record or authority. The brief does not contain a proper summary statement, introductory paragraph or statement of the issues presented for review as required by Supreme Court Rule 341(h) (eff. Feb. 6, 2013). Walker's *pro se* status does not relieve her of the burden of complying with our supreme court's rules mandating the format for appeals to this court, and this court is not required to search the record to determine what legal issues are involved in an appeal. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001). Although this court is

not bound to enforce strict compliance with supreme court rules in those cases where the basis for an appeal is clear despite a party's inadequate brief, this court has the inherent authority to dismiss an appeal when an appellant's brief fails to comply with supreme court rules. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005).

¶ 12 Here, the deficiencies in Walker's brief provide cause for dismissing the appeal (*Epstein*, 362 Ill. App. 3d at 42), however, this court will reach the merits of Walker's appeal because we have the benefit of the CHA's brief, and Walker's issue on appeal is apparent, *i.e.*, the propriety of the CHA's decision to terminate her participation in the HCV program (*Twardowski*, 321 Ill. App. 3d at 511).

¶ 13 The CHA operates under the Illinois Housing Authorities Act (310 ILCS 10/1 *et seq.* (West 2012)). The Act did not adopt the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2012)); therefore, the appropriate vehicle for review is a common law writ of *certiorari*. *Landers v. Chicago Housing Authority*, 404 Ill. App. 3d 568, 571 (2010). An appeal in this type of proceeding is considered in the same manner as any other appeal from an administrative review proceeding, and thus, we review the administrative agency's decision and not that of the circuit court. *Landers*, 404 Ill. App. 3d at 571. Our supreme court has established six months as the period of time within which a party must bring a petition for writ of *certiorari*. *Clark v. City of Chicago*, 233 Ill. 113, 115 (1908); see also *Koch v. Board of Trustees of the University of Illinois*, 39 Ill. App. 2d 51, 56 (1962) (six months is the time period during which the writ of *certiorari* must be filed unless there is a reasonable excuse for the delay).

¶ 14 The issue before us involves a mixed question of fact and law. A mixed question of fact and law is one in which the facts are admitted, the rule of law is undisputed, and the issue is

whether the rule of law as applied to the facts was violated. *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 391 (2001). In such cases, we will not reverse the agency's decision unless it is clearly erroneous. *AFM Messenger Service*, 198 Ill. 2d at 392-93. A decision is clearly erroneous if the record leaves the reviewing court with the firm and definite conviction that a mistake has been made. *AFM Messenger Service, Inc.*, 198 Ill. 2d at 395.

¶ 15 In this case, Walker's appeal must fail for two reasons. First, Walker filed her writ of *certiorari* more than six months after the hearing officer's decision. The hearing officer's decision upholding Walker's termination from the HCV program was issued on July 29, 2011, and Walker filed her petition in the circuit court on February 28, 2012, more than six months later. See *Koch*, 39 Ill. App. 2d at 56. Walker offered no reasonable excuse for her delay in filing the petition.

¶ 16 Second, even if Walker's *pro se* status constituted a reasonable excuse for her delay in filing the petition, Walker does not contend that the hearing officer made any factual errors; rather, she asks us to excuse her violations of HCV program rules and promises no future violations. The record supports the hearing officer's determination that Walker engaged in criminal activity in violation of the program rules. Thus, even without considering the conduct of Stephen Walker, the evidence adduced at the administrative hearing supports the decision to terminate Walker from the voucher program. In sum, our review of the record does not leave us with the firm conviction that a mistake has been made (*AFM Messenger Service, Inc.*, 198 Ill. 2d at 395) and we, therefore, affirm the hearing officer's decision upholding Walker's termination from the HCV program.

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¶ 17 We affirm the judgment of the circuit court of Cook County.

¶ 18 Affirmed.