

Dismissed  
Author: Riggsbee  
Concurring: Mauretic  
Scott

NO. COA00-1258

NORTH CAROLINA COURT OF APPEALS

Filed: 3 July 2001

MICHAEL ANTHONY FOWLER,  
Employee,

v.

CITY OF RALEIGH, (Self-Insured),  
Employer.

North Carolina  
Industrial Commission  
I.C. No. 921537

FILED  
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CLERK OF COURT OF APPEALS  
OF NORTH CAROLINA

Appeal by claimant from order of the North Carolina Industrial Commission filed 31 July 2000. Heard in the Court of Appeals 18 June 2001.

Michael A. Fowler, pro se, employee-appellant.

City Attorney Thomas A. McCormick, by Associate City Attorney Dorothy K. Woodward, for employer-appellee.

McCULLOUGH, Judge.

Claimant Michael Anthony Fowler, a former employee of the City of Raleigh, appeals the order of the North Carolina Industrial Commission dismissing his workers' compensation claim for lack of jurisdiction over the subject matter.

According to the documents filed in the record on appeal, claimant was fired from his job as a laborer with the Raleigh Parks and Recreation Department on 17 October 1997. After unsuccessfully pursuing an action in federal court for racial discrimination under Title VII of the Civil Rights Act of 1964, claimant filed a Form 18 with the Commission on 30 March 1999, alleging he had sustained an injury or occupational disease caused by "racial discrimination

[and] then termination from employment." He described the nature and extent of his injury as "mental condition stress angry." Employer denied the claim on the ground that claimant had not sustained an injury by accident or an occupational disease cognizable under the North Carolina Workers' Compensation statutes.

Claimant filed a Form 33 request for hearing, and employer responded with a motion to dismiss. In an order dated 26 October 1999, the deputy commissioner dismissed claimant's action, finding "that the Industrial Commission lack[ed] subject matter jurisdiction over the matters raised" and that claimant had "previously litigated and lost the claims . . . in a prior federal action." Claimant applied for review by the Full Commission, which upheld the dismissal of his claim on the grounds cited by the deputy commissioner. In his appeal to this Court, claimant argues that he was a "diligent and efficient employee," and that employer's supervisory personnel "willfully practiced discrimination" against him.

We find claimant's appellate brief fatally defective, in that it contains no reference whatsoever to any assignments of error in the record on appeal and cites no authority in support of any argument or assignment of error. By rule, his assignments of error and arguments are deemed abandoned. N.C.R. App. P. 28(b)(5) (2001). Accordingly, we dismiss the appeal.

Dismissed.

Judges MARTIN and THOMAS concur.

Report per Rule 30(e).