

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA09-991

NORTH CAROLINA COURT OF APPEALS

Filed: 20 July 2010

ROGER STEVENSON,
Plaintiff,

v.

North Carolina
Industrial Commission
I.C. No. TA-20236
A.G. No. 07-0629

N.C. DEPARTMENT OF CORRECTION,
Defendant.

Appeal by plaintiff from order entered 22 April 2009 by the Industrial Commission. Heard in the Court of Appeals 11 March 2010.

Plaintiff appears pro se.

No brief for the State.

ELMORE, Judge.

Roger Stevenson (plaintiff) appeals from an order by the Full Commission dismissing with prejudice plaintiff's claims against the N.C. Department of Correction (defendant) pursuant to the Tort Claims Act. Due to egregious violations of the North Carolina Rules of Appellate Procedure, we dismiss plaintiff's appeal.

In determining whether a party's noncompliance with the appellate rules rises to the level of a substantial failure or gross violation, the court may consider, among other factors, whether and to what extent the noncompliance impairs the court's task of review and whether and to what extent review

on the merits would frustrate the adversarial process.

Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co., 362 N.C. 191, 200, 657 S.E.2d 361, 366-67 (2008).

Per Rule 28(b)(5) of the North Carolina Rules of Appellate Procedure:

A full and complete statement of the facts. This should be a non-argumentative summary of all material facts underlying the matter in controversy which are necessary to understand all questions presented for review, supported by references to pages in the transcript of proceedings, the record on appeal, or exhibits, as the case may be.

N.C.R. App. P. 28(b)(5) (2009). Plaintiff's statement of facts is a numbered list of allegations regarding the validity of his claim and a statement that error was committed by the Full Commission.

Per Rule 28(b)(6) of the North Carolina Rules of Appellate Procedure, "[t]he argument shall contain a concise statement of the applicable standard(s) of review for each question presented."

N.C.R. App. P. 28(b)(5) (2009). No such standards of review are provided.

Per Rule 28(b)(6) of the North Carolina Rules of Appellate Procedure, "[t]he body of the argument and the statement of applicable standard(s) of review shall contain citations of the authorities upon which the appellant relies." N.C.R. App. P. 28(b)(5) (2009). The bulk of defendant's assertions are unsupported by citations to any law; indeed, key statements - for example, the claim that we must assume that every fact alleged in his affidavit is true - are followed by blanks indicating

placeholders for case names and citations. In fourteen pages of argument, defendant cites to three North Carolina cases.

The most concerning violation, however, is the fact that the bulk of the record is unreadable. Defendant notes this in his brief, but mentions it as a failing of the Court for not properly reproducing it. From the lines that do appear on the record's illegible pages, it is clear that - as is true for all of defendant's brief - the pages were handwritten. However, all the handwritten pages of defendant's brief - which was also reproduced by this Court - are legible, while the handwritten record pages are not; defendant offers no suggestion as to why the Court is responsible for the illegibility of the record, when the brief did not suffer the same transformation. We are aware that defendant is acting *pro se* in this matter, but that status does not permit gross violations of the rules. See *Strauss v. Hunt*, 140 N.C. App. 345, 348-49, 536 S.E.2d 636, 639 (2000) ("[E]ven *pro se* appellants must adhere strictly to the Rules of Appellate Procedure (the Rules) or risk sanctions[.]") (citing N.C.R. App. P. 25(b)).

Dismissed.

Judges JACKSON and STROUD concur.

Report per Rule 30(e).