

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA22-1017

Filed 16 May 2023

Durham County, No. 22 CVS 2875

WILHELMINA STEPHENS-BEY, Plaintiff,

v.

DUKE UNIVERSITY MEDICAL CENTER, Defendant.

Appeal by plaintiff from order entered 22 September 2022 by Judge Michael J. O’Foghludha in Durham County Superior Court. Heard in the Court of Appeals 25 April 2023.

Plaintiff-appellant Wilhelmina Stephens-Bey, pro se.

Ogletree Deakins Nash Smoak & Stewart, P.C., by Jefferson P. Whisenant, for defendant-appellee.

ZACHARY, Judge.

Plaintiff Wilhelmina Stephens-Bey appeals from the trial court’s order granting Defendant Duke University Medical Center’s motion to dismiss. After careful review, we dismiss this appeal.

I. Background

Plaintiff worked for Defendant from 2006 until Defendant terminated her

employment on 4 December 2020. On 28 June 2021, Plaintiff filed a complaint against Defendant in Guilford County Superior Court, alleging religious discrimination¹ in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* However, the next day Plaintiff and Defendant filed a joint, voluntary dismissal of Plaintiff's action without prejudice.

The parties then submitted the matter to binding arbitration, and the case came on for hearing before an arbitrator on 3 and 4 May 2022. Both parties were represented by counsel. On 12 May 2022, the arbitrator issued an award in favor of Defendant on Plaintiff's religious discrimination claim. Plaintiff did not thereafter directly challenge or move to set aside the arbitrator's award.

Rather, on 12 July 2022, Plaintiff filed a *pro se* complaint against Defendant in Durham County Superior Court, this time alleging racial discrimination by Defendant and arguing that in the arbitration proceeding she “was not tried properly, and [she] did not get a fair trial.” On 12 August 2022, Defendant filed a motion to dismiss Plaintiff's complaint pursuant to Rules 12(b)(2), (4), (5), and (6) of the North Carolina Rules of Civil Procedure. Defendant argued, *inter alia*, that Plaintiff had not properly served Defendant, and that Plaintiff had failed to state a claim upon which relief could be granted. *See* N.C. Gen. Stat. § 1A-1, Rule 12(b)(5)–(6) (2021).

¹ In her complaint, Plaintiff alleges that she “converted to the Mohammedan faith on or about 2016 and was of said faith throughout her remaining years of employment with Defendant”; in her appellate brief, she identifies as “a Moorish American Moslem.”

On 19 September 2022, Plaintiff filed a motion requesting that the trial judge recuse himself due to an alleged conflict of interest as a graduate of Duke University. The parties' motions came on for hearing in Durham County Superior Court later that day. By order entered on 22 September 2022, the trial court denied Plaintiff's motion to recuse and granted Defendant's motion to dismiss pursuant to Rules 12(b)(5) and (6). The trial court dismissed Plaintiff's complaint without prejudice.

Plaintiff timely filed notice of appeal.

II. Discussion

In its appellate brief, Defendant argues that Plaintiff's "numerous violations of the North Carolina Rules of Appellate Procedure warrant dismissal of her appeal." In support of this argument, Defendant provides an extensive list of the appellate rules that Plaintiff violated with regard to the record on appeal and her appellate brief.

For example, Defendant alleges that Plaintiff's record on appeal violates Appellate Rule 9 by failing to include a statement of organization of the trial court; including items not "necessary for an understanding of all issues presented on appeal"; neglecting to arrange filings in the order in which they occurred or were filed with the trial court; and failing to number pages consecutively, among other alleged violations. *See* N.C.R. App. P. 9(a)(1)(b), 9(a)(1)(e), 9(b)(1), 9(b)(2), 9(b)(4). Defendant also alleges that Plaintiff's "Statement Issues of Appeal" [sic] is not placed "at the conclusion of the printed record"—as required by Appellate Rule 10(b)—and is

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improperly argumentative, as well. N.C.R. App. P. 10(b). Moreover, Defendant argues that Plaintiff “purported to request a transcript of the trial court proceedings[] but failed to serve [Defendant] with a copy of the Transcript Contract within fourteen days of filing her Notice of Appeal.” *See* N.C.R. App. P. 7(b)(2).

As for Plaintiff’s appellate brief, Defendant contends that:

- It fails to include a table of authorities. *See* N.C.R. App. P. 26(g)(2), 28(b)(1).
- It fails to include a statement of issues presented for review. *See* N.C.R. App. P. 28(b)(2).
- It fails to include a statement of the procedural history of the case. *See* N.C.R. App. P. 28(b)(3).
- It fails to include a statement of the grounds for appellate review, including a statement that the trial court entered a final judgment. *See* N.C.R. App. P. 28(b)(4).
- It fails to include a non-argumentative statement of facts necessary to understand the issues presented, with citation to the record on appeal. *See* N.C.R. App. P. 28(b)(5).
- It fails to identify the appropriate standard of review, with citation to the relevant or applicable authorities. *See* N.C.R. App. P. 28(b)(6).
- It fails to include any proof of service. *See* N.C.R. App. P. 28(b)(9).
- It fails to include a Certificate of Compliance. *See* N.C.R. App. P. 28(j)(2).
- It is single spaced. *See* N.C.R. App. P. 26(g).
- The page numbers are not located at the center of

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the top margin and are not flanked by dashes. *See* N.C.R. App. P. Appendix B.

- Documents that are not in the record and not permitted under N.C.R. App. P. 28(d) are attached to the brief.

“Compliance with the rules” of appellate procedure “is mandatory.” *Dogwood Dev. & Mgmt. Co. v. White Oak Transp. Co.*, 362 N.C. 191, 194, 657 S.E.2d 361, 362 (2008). “As a natural corollary, parties who default under the rules ordinarily forfeit their right to review on the merits.” *Id.* at 194, 657 S.E.2d at 363. “Although we recognize the difficult challenges a *pro se* litigant and appellant encounters when navigating the rules and procedures of our legal system, our Rules of Appellate Procedure equally apply to everyone—whether acting *pro se* or being represented by all of the five largest firms in the state.” *Guerra v. Harbor Freight Tools*, ___ N.C. App. ___, ___, 884 S.E.2d 74, 78 (2023) (citation and internal quotation marks omitted).

“A failure of the parties to comply with these rules, and failure of the appellate courts to demand compliance therewith, may impede the administration of justice.” *Ramsey v. Ramsey*, 264 N.C. App. 431, 432, 826 S.E.2d 459, 461 (2019) (citation and internal quotation marks omitted). However, our Supreme Court has “emphasized that noncompliance with the appellate rules does not, ipso facto, mandate dismissal of an appeal.” *Dogwood*, 362 N.C. at 194, 657 S.E.2d at 363. Nonetheless, in the present case, we need not determine whether Plaintiff’s procedural violations merit

dismissal of her appeal, as our careful review of her brief and the record on appeal reveals that she has abandoned any arguments on appeal by failing to cite any applicable legal authority to support her claims.

“Issues not presented in a party’s brief, or in support of which no reason or argument is stated, will be taken as abandoned.” N.C.R. App. P. 28(b)(6). Here, Plaintiff provides no statement of issues presented, and it is unclear what challenges she seeks to advance. Regarding the trial court’s order granting Defendant’s motion to dismiss, from which Plaintiff appealed, she states, *inter alia*, that the trial judge erred by failing to recuse himself, but provides no relevant legal authority in support of that contention. In addition, Plaintiff cites no pertinent legal authority to support her statement that the trial court erred by granting Defendant’s motion to dismiss.

Plaintiff has abandoned the only issues raised in her appellate brief that bear any relation to the trial court’s order granting Defendant’s motion to dismiss. Accordingly, this appeal is properly dismissed.

III. Conclusion

For the foregoing reasons, Plaintiff’s appeal is dismissed.

DISMISSED.

Judges GORE and GRIFFIN concur.

Report per Rule 30(e).