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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1137

Filed 18 June 2024

Rockingham County, No. 21 CVS 3158

ROGER WILLIAM WOLF, Plaintiff,

v.

STEPHEN SWIFT, Defendant.

Appeal by plaintiff from order entered 12 June 2023 by Judge Stanley L. Allen in Superior Court, Rockingham County. Heard in the Court of Appeals 29 May 2024.

*Roger William Wolf, pro se, plaintiff-appellant.*

*No brief filed for defendant-appellee.*

PER CURIAM.

Roger William Wolf (“plaintiff”) appeals from order denying his motion for summary judgment. For the following reasons, we dismiss the appeal.

I. Background

On 30 December 2021, plaintiff filed a complaint against Stephen Swift (“defendant”), alleging in part that he suffered injuries while working for defendant’s auto detailing business when he was assaulted by another employee. Plaintiff filed

a motion for summary judgment on 7 November 2022, and the motion was heard on 20 March 2023. During the hearing, defendant contended that a genuine issue of material fact existed because plaintiff was an independent contractor, “and the injury was sustained due to horseplay between [plaintiff] and another individual who was a subcontractor.” The trial entered an order denying plaintiff’s motion for summary judgment on 12 June 2023. Plaintiff filed a notice of appeal on 10 July 2023.

## II. Discussion

On appeal, plaintiff contends the trial court erred in denying his motion for summary judgment. However, because the summary judgment order is interlocutory and no circumstance exists where the interlocutory order may be appealed, we dismiss plaintiff’s appeal.

“An order or judgment is interlocutory if it is made during the pendency of an action and does not dispose of the case but requires further action by the trial court in order to finally determine the entire controversy.” *N.C. Dept. of Transp. v. Page*, 119 N.C. App. 730, 733 (1995) (citation omitted). The denial of a motion for summary judgment is an interlocutory order. *Northwestern Fin. Grp. v. Cnty of Gaston*, 110 N.C. App. 531, 535 (citation omitted), *disc. review denied*, 334 N.C. 621, 435 (1993). And generally, there is no right of immediate appeal for such orders. *Sharpe v. Worland*, 351 N.C. 159, 161 (1999) (citations omitted). Such rule is “designed to prevent fragmentary and premature appeals that unnecessarily delay the administration of justice . . . .” *Bailey v. Gooding*, 301 N.C. 205, 209 (1980) (citations

omitted).

But an interlocutory appeal is permissible if either “(1) the trial court certified the order under Rule 54(b) of the Rules of Civil Procedure, or (2) the order affects a substantial right that would be lost without immediate review.” *Boyd v. Robeson Cnty*, 169 N.C. App. 460, 464 (2005) (citation omitted). “Under either of these two circumstances, it is the appellant’s burden to present appropriate grounds for this Court’s acceptance of an interlocutory appeal and our Court’s responsibility to review those grounds.” *Jeffreys v. Raleigh Oaks Joint Venture*, 115 N.C. App. 377, 379 (1994). “It is not the duty of this Court to construct arguments for or find support for appellant’s right to appeal from an interlocutory order[.]” *Id.* at 380 (citation omitted). Additionally, “appellants must present more than a bare assertion that the order affects a substantial right; they must demonstrate *why* the order affects a substantial right.” *Hoke Cnty. Bd. of Educ. v. State*, 198 N.C. App. 274, 277–78 (2009) (alteration in original) (citation omitted); *see also* N.C.R. App. P. 28(b)(4) (“When an appeal is interlocutory, the statement must contain sufficient facts and argument to support appellate review on the ground that the challenged order affects a substantial right.”).

Here, the 12 June 2023 order denying plaintiff summary judgment was interlocutory. Because the record does not contain a Rule 54(b) certification, under *Jeffreys*, plaintiff must demonstrate that a substantial right will be affected to obtain immediate appellate review. Plaintiff fails to do so. Other than a conclusory

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statement that his appeal “properly lies” under N.C.G.S. §§ 1-277(a), 7A-27(b), plaintiff presents no factual or legal basis for why the order affects a substantial right. Accordingly, pursuant to this Court’s precedent and N.C.R. App. P. 28(b)(4), we dismiss plaintiff’s appeal.

III. Conclusion

For the foregoing reasons, this appeal is dismissed.

DISMISSED.

Before a panel consisting of Chief Judge DILLON and Judges ARROWOOD and HAMPSON.

Report per Rule 30(e).