

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

HASSAN MUHAMMAD,
Petitioner Employee,

v.

THE INDUSTRIAL COMMISSION OF ARIZONA,
Respondent,

SWIFT TRANSPORTATION,
Respondent Employer,

GALLAGHER BASSETT SERVICES,
Respondent Insurer.

No. 2 CA-IC 2014-0018
Filed May 7, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Special Action - Industrial Commission
ICA Claim No. 20132-130277
Insurer No. 002031-011945
Layna Taylor, Administrative Law Judge

AWARD AFFIRMED

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COUNSEL

Hassan Muhammad, Casa Grande
In Propria Persona

The Industrial Commission of Arizona, Phoenix
By Andrew F. Wade
Counsel for Respondent

Lester, Norton & Brozina, P.C., Phoenix
By Christopher S. Norton
Counsel for Respondents Employer and Insurer

MEMORANDUM DECISION

Presiding Judge Kelly authored the decision of the Court, in which Judge Howard and Judge Vásquez concurred.

K E L L Y, Presiding Judge:

¶1 In this statutory special action, petitioner Hassan Muhammad challenges the Industrial Commission administrative law judge's (ALJ) award of workers' compensation benefits, claiming he is entitled to "back pay" from the date his employment was terminated, workers' compensation benefits, and reimbursement for medical expenses. For the following reasons, we affirm the award.

Factual and Procedural Background

¶2 "We view the evidence in the light most favorable to sustaining the ALJ's findings."¹ *Tucson Unified Sch. Dist. v. Indus.*

¹Neither Muhammad nor the respondents have cited the record on appeal in their statements of facts. *See* Ariz. R. Civ. App. P. 13(a)(5). We therefore rely on our own review of the record. *See Delmastro & Eeels v. Taco Bell Corp.*, 228 Ariz. 134, ¶ 2, 263 P.3d 683,

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Comm'n, 198 Ariz. 133, ¶ 2, 7 P.3d 142, 143 (App. 2000). Muhammad sustained an industrial injury on July 14, 2013, while working for respondent employer Swift Transportation (Swift), after his commercial truck caught fire. He filed a claim for workers' compensation benefits on July 29 but was terminated from his job that same day. Respondent insurer Gallagher Basset Services (Gallagher Basset) accepted his claim for benefits on July 31, but stated it would not award compensation because Muhammad's injury did not cause him to miss more than seven days of work.

¶3 Muhammad requested a hearing before an ALJ, claiming he was "entitled to medical and disability benefits." He further maintained that Swift had "refus[ed] to authorize treatment" or "reimburse [him] for medical bills" and that Gallagher Basset had "refuse[d] to pay temporary disability benefits due to [him] since the date of the injury." After conducting hearings on Muhammad's claims, the ALJ determined that Gallagher Bassett was responsible for certain of Muhammad's medical expenses but that Muhammad's industrial injury had "played no role" in his employment termination, Muhammad did not suffer a loss in earning capacity, and he was not entitled to temporary disability benefits. Muhammad requested review, and the ALJ affirmed the award. This petition for statutory special action followed.

Discussion

¶4 Muhammad claims that Swift wrongfully terminated his employment based on his claim for workers' compensation benefits. He further contends he has not been paid any workers' compensation or unemployment benefits owed to him and asserts he still is suffering from the industrial injury. Muhammad requests "all back pay to be paid from wrongful termination" and for "damages" resulting from his industrial injury.

¶5 But Muhammad has failed to substantially comply with our rules of appellate procedure, which require that an appellant's

686 (App. 2011); *Flood Control Dist. v. Conlin*, 148 Ariz. 66, 68, 712 P.2d 979, 981 (App. 1985).

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opening brief contain facts “relevant to the issues presented for review, with appropriate references to the record,” including “where [in the record on appeal] the particular issue was raised and ruled on.” Ariz. R. Civ. App. P. 13(a)(5), (7). These are more than merely technical requirements, as Muhammad’s omissions prevent our meaningful review. For example, although Muhammad requests in his petition that we “review the award of the Industrial Commission,” he does not allege any error on the part of the ALJ or that the ALJ abused its discretion in reaching its determination. *See* A.R.S. § 23-951(B) (appellate review of Industrial Commission award limited to “determining whether or not the commission acted without or in excess of its power” and whether the findings of fact support the ALJ’s decision upon review). Muhammad also fails to establish what evidence the ALJ found relevant in making its determination or where in the record we may find such evidence. *See State v. Schackart*, 190 Ariz. 238, 247, 947 P.2d 315, 324 (1997) (appellate court “does not act as a fact-finder” and “generally [does] not consider materials that are outside the record on appeal”); Ariz. R. Civ. App. P. 11(a) (governing composition of record on appeal).

¶6 To the extent Muhammad argues he is entitled to additional workers’ compensation benefits,² he has failed to support his contentions with any explanation or citation to legal authority. *See* Ariz. R. Civ. App. P. 13(a)(7)(A) (appellant must present “supporting reasons for each contention, . . . with citations of legal authorities and appropriate references to the portions of the record on which [he] relies”). These errors are sufficient for us to find Muhammad’s claims waived, *see Polanco v. Indus. Comm’n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007) (finding waiver based on failure to comply with appellate procedural rules), and are justification for our summary refusal to consider his appeal, *see In re \$26,980.00 U.S. Currency*, 199 Ariz. 291, ¶ 28, 18 P.3d 85, 93 (App. 2000) (appellate court will not consider appellant’s bald assertion

²Muhammad’s contentions that he was wrongfully terminated by Swift and is owed unemployment benefits are not within the scope of our review of an Industrial Commission award. *See* § 23-951(B).

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offered without elaboration or citations to legal authority). Although Muhammad is proceeding in propria persona, he is “held to the same familiarity with required procedures and the same notice of statutes and local rules as would be attributed to a qualified member of the bar,” and “is entitled to no more consideration than if he had been represented by counsel.” *Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (App. 1983).

Disposition

¶7 For the foregoing reasons, we affirm the ALJ's award.