

STATE OF MICHIGAN
COURT OF APPEALS

RICHARD GILLIES,

Plaintiff-Appellant,

v

24TH DISTRICT COURT,

Defendant-Appellee.

UNPUBLISHED

November 30, 2004

No. 249436

Wayne Circuit Court

LC No. 02-229570-CZ

Before: Meter, P.J., and Wilder and Schuette, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff first claims that the trial court erred in dismissing his claim for a violation of the Whistleblower's Protection Act (WPA), MCL 15.361 *et seq.* A trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

The WPA prohibits an employer from discharging or otherwise discriminating against an employee with respect to his employment "because the employee . . . reports or is about to report, verbally or in writing, a violation or suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body" MCL 15.362. The elements of a cause of action under the WPA are "(1) the plaintiff was engaged in a protected activity as defined by the act, (2) the plaintiff was discharged or discriminated against, and (3) a causal connection exists between the protected activity and the discharge or adverse employment action." *West v General Motors Corp*, 469 Mich 177, 183-184; 665 NW2d 468 (2003).

There appears to be no dispute that plaintiff was an employee and defendant was an employer under the act. See MCL 15.361(1)(a) and (1)(b). When plaintiff reported a coworker's misconduct to the court administrator, he made a report to a public body. MCL 15.361(1)(d)(vi). The WPA "protects reports made against a co-worker, not just an employer." *Trepanier v Nat'l Amusements, Inc*, 250 Mich App 578, 584; 649 NW2d 754 (2002).

Protected activity under the WPA includes reporting a violation of a law or a violation of a regulation or rule promulgated pursuant to a law of this state, a political subdivision of this state, or the United States. MCL 15.362; *Roulston v Tendercare (Michigan), Inc*, 239 Mich App 270, 279; 608 NW2d 525 (2000). Plaintiff reported that a coworker violated defendant's work rules concerning proper conduct, which appear to be patterned after Canon 3, Rule (A)(3), of the Michigan Code of Judicial Conduct. Plaintiff thus contends that the work rules constitute "a rule or regulation imposed by this State." We note that the Code of Judicial Conduct is a set of standards and rules for the ethical conduct of judges promulgated by the Supreme Court. The Supreme Court is neither the state nor the United States. Whether the Supreme Court constitutes a political subdivision of the state and whether the Code of Judicial Conduct otherwise constitutes a law, rule, or regulation within the meaning of MCL 15.362 are questions plaintiff has not adequately addressed. Because plaintiff has failed to address adequately an issue that must necessarily be reached to reverse the trial court's order, he is not entitled to relief. *FMB-First Michigan Bank v Bailey*, 232 Mich App 711, 717; 591 NW2d 676 (1998); *Sargent v Browning-Ferris Indus*, 167 Mich App 29, 37; 421 NW2d 563 (1998); *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987).

Plaintiff next asserts that he had a valid claim for retaliatory discharge under the Elliott-Larsen Civil Rights Act, MCL 37.2701(a). This issue has not been preserved for appeal because plaintiff did not include it in his statement of questions presented on appeal. *Busch v Holmes*, 256 Mich App 4, 12; 662 NW2d 64 (2003). Moreover, the issue is deemed abandoned because plaintiff has not adequately briefed its merits. *FMB-First Michigan, supra* at 717.

Plaintiff next asserts that the trial court erred in dismissing his complaint because he had viable causes of action for discrimination and violation of his First Amendment rights. The nature of the claim is not clearly presented, but appears to be that his discharge and discriminatory treatment violated public policy because they were carried out in retaliation for plaintiff's having exercised his First Amendment rights. Because plaintiff has not adequately briefed the merits of the claim, it is deemed abandoned. *Id.* "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims." *Green Oak Twp v Munzel*, 255 Mich App 235, 244; 661 NW2d 243 (2003).

Plaintiff's final claim is that after the court ruled on defendant's motion, defendant engaged in dilatory tactics designed to prejudice plaintiff's right to file a motion for reconsideration and to file an appeal as of right. Appellate review is generally limited to issues actually decided by the trial court. *Allen v Keating*, 205 Mich App 560, 564-565; 517 NW2d 830 (1994). Because this issue was not raised and addressed below, it has not been preserved for appellate review. *Herald Co, Inc v Ann Arbor Pub Sch*, 224 Mich App 266, 278; 568 NW2d 411 (1997).

Affirmed.

/s/ Patrick M. Meter
/s/ Kurtis T. Wilder
/s/ Bill Schuette