

COURT OF APPEALS OF VIRGINIA

Present: Judges Frank, Clements and Haley

CLINTON R. BARLOW (ESTATE OF) AND
CLINTON C. BARLOW

v. Record No. 3034-04-2

WINKELMAN, INC. AND
LIBERTY MUTUAL FIRE INSURANCE COMPANY

MEMORANDUM OPINION*
PER CURIAM
JUNE 28, 2005

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Clinton C. Barlow, pro se, on brief.)

(Robert A. Rapaport; Jennifer Tatum Atkinson; Clarke, Dolph,
Rapaport, Hardy & Hull, P.L.C., on brief), for appellees.

Clinton C. Barlow (claimant) appeals a decision of the Workers' Compensation Commission finding that (1) the commission lacked jurisdiction to consider claimant's July 30, 2004 letter filed on August 2, 2004, because it did not constitute a timely request for review of the claims examiner's October 9, 1998 rejection of claimant's September 28, 1998 claim; and (2) even if claimant's August 2, 2004 request was timely, the commission was barred from considering claimant's September 28, 1998 claim, as well as his July 30, 2004 letter, under the doctrine of *res judicata*. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Barlow v. Winkelman, Inc., VWC File No. 116-51-11 (Nov. 5, 2004). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.¹

Affirmed.

¹ To the extent that appellant argues that the twenty-day period for filing a request for review was tolled due to his alleged mental illness/incompetence, we will not consider that argument as it was not raised before the commission. See Green v. Warwick Plumbing & Heating Corp., 5 Va. App. 409, 412-13, 364 S.E.2d 4, 6 (1988); Rule 5A:18.