

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
92CVS12910

JOHN C. BROOKS, COMMISSIONER
OF LABOR OF NORTH CAROLINA,

OSHANC NO. 91-1987

Petitioner,

ORDER

v.

HATTERAS YACHTS, A DIVISION
OF GENMAR INDUSTRIES, INC.,

Respondent.

The North Carolina Department of Labor cited Hatteras for alleged OSHA violations in April 1991. Hatteras contested the citations, and a hearing was held before a hearing examiner of the Safety and Health Review Board on April 8, 1992. On May 8, 1992, the hearing examiner dismissed all of the citations. The Department of Labor timely petitioned for review by the Safety and Health Review Board of North Carolina. The Review Board heard oral arguments on July 23, 1992, and subsequently served a written decision affirming the hearing examiner's order on the Department of Labor and Hatteras on August 19, 1992.

The Department of Labor failed to file a petition for judicial review until December 23, 1992. Both the Safety and Health Review Board Rules of Procedure and North Carolina law require that petition for judicial review be filled within 30 days after service of a written copy of the decision. Rules of Procedure .0602 (d) and .0605; N.C. Gen. Stat. §§ 95-135(i), 95-141, and 150B-45. Thus, on motion by Respondent, and it appearing that the Petition for Review has been untimely filed, the Court hereby dismisses the Petition for Review.

IT IS SO ORDERED.

Dated this the 27th day of May, 1993.

GREGORY A. WEEKS
PRESIDING JUDGE
WAKE COUNTY SUPERIOR COURT