

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
Hunsten B. Ragin as Personal)
Representative for the Estate of Samel)
Ragin,)
)
Plaintiff,)
)
v.)
)
Pilgrim's Pride Corporation, Mary)
McBride, and Susan Jones,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2021-CP-43-00307

**ORDER GRANTING DEFENDANTS'
MOTION TO RECONSIDER**

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SC Court of Appeals

This matter is before the Court on a Motion to Reconsider the Court's Denial of Defendants' Motion for Summary Judgement filed by Defendants Pilgrim's Pride Corporation, Mary McBride, and Susan Jones under Rule 59(e), SCRCF, on the grounds that Workers' Compensation is the exclusive remedy for this matter and the Estate of Samel Ragin did not have standing to bring suit. At the hearing, Defendants were represented by Kristian M. Cross, Esq. and Plaintiff was represented by Neil E. Alger, Esq. For the following reasons, Defendants' Motion to Reconsider is GRANTED.

LEGAL STANDARD

Rule 59(e), SCRCF, allows a court to alter or amend a judgment upon a party's timely motion. "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004).

Summary Judgment is appropriate where there is no genuine issue of material fact and it is clear the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCF. In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn



from the evidence must be viewed in the light most favorable to the nonmoving party. Hancock v. Mid-South Mgmt. Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

STATEMENT OF UNDISPUTED FACTS

Decedent Samel Ragin was an employee at the Pilgrims' Pride factory in Sumter, South Carolina. The Pilgrims' Pride factory is a large chicken processing plant. On November 24, 2017, Decedent Ragin arrived for her shift at the factory. Decedent Ragin visited the nursing clinic at Pilgrim's Pride with complaints of shortness of breath and chest pains. The nursing clinic at Pilgrim's Pride was staffed by nurses employed by Pilgrim's Pride. Around 4 p.m., Decedent Ragin was discovered in the women's restroom where she was determined to be unresponsive. She was declared deceased upon arrival to Palmetto Health Toumey Hospital due to a heart attack from Cardiomyopathy and irregular heartbeat.

Decedent Ragin's estate was opened by Personal Representative Hunsten B. Ragin, her mother, on April 3, 2018. Ms. Hunsten B. Ragin passed away on September 27, 2020. Following the death of the Personal Representative, on November 6, 2020, the Estate of Samel Ragin filed their Notice of Intent.

The Estate of Samel Ragin proceeded forward with the Notice of Intent process and on February 23, 2021, filed this Summons and Complaint. On October 19th, 2021.

DECISION AND COURT RULING

The Court finds the Defendants Mary McBride and Susan Jones were co-employees of the decedent Samuel Ragin, and that this matter is therefore barred by the Exclusivity Remedy Doctrine of the South Carolina Worker's Compensation Act. While the Court recognizes that other jurisdictions have adopted a "dual capacity exception" to the immunity provided by worker's compensation when it comes to company-employed physicians, the vast majority of states have

refused to recognize such an exception, finding that doing so would be antithetical to the overall purpose of worker's compensation. The majority of states further recognize that it is a function of the legislature to create any such exceptions; had they intended for a dual capacity exception to apply to company physicians, they would have done so. I find the rationale of the majority to be compelling in this matter as well.

More specifically, the allegations of the Complaint state the Plaintiff was at work, and that her employer or co-employees were negligent for failing to take action when the Decedent ostensibly sought medical care at the nurse's station at the plant. The South Carolina Workers' Compensation Act provides immunity to employers and co-employees from suits brought by employees except in certain factual circumstances involving intentional conduct. *S.C. Code Ann. Section 42-1-540 (as amended)*. Exclusivity provision of the Workers' Compensation Act precludes an employee from maintaining a tort action against an employer where the employee sustains a work-related injury. *Posey v. Proper Mold & Engineering, Inc.*, 378 S.C. 210, 661 S.E.2d 395 (Ct. App. 2008)

Plaintiff admits "this incident" involving Decedent Ragin "occurred while she was on the job and while she was at her place of employment." (*See* Plaintiff's Memo in Opp. To MSJ at p. 7). Moreover, Plaintiff concedes *Fuller v. Blanchard*, is controlling case law as to this matter. *Fuller v. Blanchard*, 358 S.C. 536, 595 S.E.2d 831 (Ct. App. 2004). However, Plaintiff's argument misinterprets the *Fuller* opinion. This case is distinguishable from *Fuller* because, unlike the physician in *Fuller* who was an independent contractor, Mary McBride and Susan Jones were undisputed full-time employees of Pilgrim's Pride. As such, McBride and Jones were Decedent's co-employees.

An employee negligently injured by a co-employee conducting the employer's business may not hold the co-employee personally liable in tort but must instead rely upon the remedies provided by the Workers' Compensation Act. Fuller v. Blanchard, 358 S.C. 536, 595 S.E.2d 831 (Ct. App. 2004). Decedent received treatment as an employee of Pilgram's Pride. The nurses who treated Decedent were employees of Pilgram's Pride whose purpose was to provide medical treatment to Pilgram's Pride employees. As such, Decedent would not have been exposed to the risk of the alleged negligent medical treatment by Pilgram's Pride's nursing staff apart from her employment at Pilgram's Pride.

The Court is also not persuaded by Plaintiff's argument that the Defendants' Workers' Compensation Insurer's denial letter as proof of a decision of under the S.C. Workers' Compensation Act. The purported negligence of Pilgram's Pride's nursing staff and whether it relates to the Decedent's injury/illness or employment, is a question for the South Carolina Workers' Compensation Commission. Boulware v. Mills, 294 S.C. 24, 362 S.E.2d 184 (Ct. App. 1987); Fuller v. Blanchard, 358 S.C. 536, 595 S.E.2d 831 (Ct. App. 2004).

CONCLUSION

As a matter of law, this Court dismisses this lawsuit pursuant to the exclusive remedy doctrine contained in the *South Carolina Workers' Compensation Act*, which clearly provides immunity to employers and co-employees from negligence suits by employees. *Rule 56, SCRCP; S.C. Code Ann. Section 42-1-540 (as amended); Boulware v. Mills; Fuller v. Blanchard; Posey v. Proper Mold & Engineering, Inc.* Accordingly, this Court GRANTS Defendants' Motion to Reconsider; and therefore, GRANTS Defendants' Motion for Summary Judgement based on the Exclusivity Doctrine.

IT IS SO ORDERED.

The Honorable Kristi F. Curtis
Presiding Judge, Sumter County Circuit Court



Sumter Common Pleas

Case Caption: Hunsten B. Ragin , plaintiff, et al VS Pilgrim'S Pride Corporation ,
defendant, et al
Case Number: 2021CP4300307
Type: Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

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