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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2022-000090

Randall Dalton, Employee,..... Appellant,

v.

The Muffin Mam, Employer,
and Amerisure Mutual Insurance Company, Inc., Carrier,.....Respondents.

PETITION FOR REHEARING

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Attorneys for Appellant

PETITION FOR REHEARING

Pursuant to Rules 221(a) and 240 of the South Carolina Appellate Court Rules, Appellant Randall Dalton hereby petition the Court to grant rehearing of its opinion in *Dalton v. Muffin Mam, Inc.*, Op. No. 2023-UP-164, 2023 WL 3093112 (S.C. Ct. App. 2023) (per curiam) (unpublished). Rehearing is warranted when the Court has overlooked or misapprehended aspects of the case.

GROUND FOR PETITION

Appellant respectfully resubmits all arguments from his brief and, additionally, respectfully submits that the Court may have overlooked or misapprehended points in its decision:

First, the Court does not address whether "sheltered work" doctrine actually applies under South Carolina law, and, if so, whether any in evidence in the record substantiates that Appellant has not sustained a loss of "earning capacity" so that he is totally disabled under S.C. Code Ann. Section 42-9-10. *See, e.g., Keeter v. Clifton Mfg. Co. et al.*, 225 S.C. 389, 82 S.E.2d 520 (1954).

Second, the Court fails to address whether the findings made by the Full Commission constitute substantial evidence as would be required to affirm the Full Commission's findings regarding Appellant's not being totally disabled when all competent evidence in the records points to the contrary. *See, e.g., Hargrove v. Titan Textile Co.*, 360 S.C. 276, 599 S.E.2d 604 (Ct. App. 2004).

Third, the Court fails to address whether substantial evidence supports the finding that Appellant does not have disability to the spine in excess of 50% so as to be totally disabled or, at a minimum, impairment in excess of the ratings provided by the Full Commission.

CONCLUSION

Petitioner respects that the Court has considered his arguments and denied them; for the foregoing reasons, Petitioner nevertheless believes that this Court should grant a rehearing, schedule the case for oral argument, and modify *Dalton v. Muffin Mam, Inc.*, Op. No. 2023-UP-164, 2023 WL 3093112 (S.C. Ct. App. 2023) (per curiam) (unpublished) to reverse.

Respectfully Submitted,

HAWKLAW, PA

BY: s/ Logan Rollins

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May 4, 2023

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and Amerisure Mutual Insurance Company, Inc., Carrier,.....Respondents.

CERTIFICATE OF COUNSEL

The undersigned certified that this **Petition for Rehearing** has been served on counsel for Respondents via electronic mail and by depositing a copy of same in the United States mail, postage pre-paid, on this the 4th day of May, 2023, addressed to:

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Respectfully Submitted,

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Attorneys for Appellant



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SC Court of Appeals

Via eFile and USPS
Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
PO Box 11629
Columbia, S.C. 29211

Re: Randall G. Dalton, Employee, Appellant, v. The Muffin Mam, Inc., Employer,
and Amerisure Mutual Insurance Company, Inc., Carrier, Respondents.
Appellate Case No.: 2022-000090

Dear Ms. Kitchings:

Please find enclosed the following documents:

1. Original and one copy of Appellant's Petition for Rehearing; and
2. Original and one copy of Appellant's Proof of Service of same on Respondents.

Please file these documents and return a clocked copy to me in the enclosed self-addressed, stamped envelope.

With kind regards, I remain

Sincerely,

Logan Rollins
Attorney

LR/ca

cc: Ms. Helen Hiser (via email helen.hiser@mgclaw.com)
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