

BRIEF OF APPELLANT
THE STATE OF SOUTH CAROLINA

In The Court of Appeals
In The Supreme Court

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Nov 30 2023

SC Court of Appeals

WORKERS COMPENSATION COMMISSION PANEL:

Cynthia C. Dooley, Chair

T. Scott Beck

Melody L. James

Appellate Case No. 2023-001264

Takara L Stewart

Claimant/Appellant,

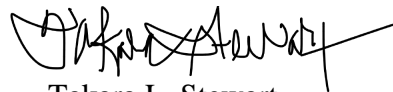
South Carolina CVS Pharmacy, LLC,
Employer and

XL Insurance America Inc.,
Carrier

Defendants/Respondents

Initial Brief Of Appellant

November 30, 2023



Takara L. Stewart
108 E York Street
Suite 236
Savannah, Georgia 31401
(984) 215-1812
Pro Se

I. RE: STATEMENTS OF THE CASE

I, Takara Stewart (“Claimant”) sustained a compensable physical-mental injury and a compensable mental-mental injury for which the January 19, 2023 order granted temporary total disability and medical benefits. This is *an appeal* for the July 10, 2023 order of Commissioner’s Dooley and T. Scott Beck which *reversed* the January 19, 2023 order of hearing Commissioner A. Taylor. Claimant was not present for the May 8, 2023 appellate panel oral argument, may it please the commission to state the facts of this claim. I have been denied compensation on the basis of bias speculation, unsupported defense narration purported with inconsistent sequencing of events and socioeconomic mockery, and respectfully an inconsistent Workers Compensation Commission solidarity per justifiable remedy in claimant processing.

In retrospect, the night of December 26, 2019 I was sexually mauled, assaulted by a CVS customer while performing my supervisory job description for the CVS location 3210 East Palmetto Street, Florence South Carolina 29506. That assailant has been confirmed as Elizabeth Johnson Rawlinson. (Claimants APA #2, #9). There were two (2) assigned retail employees, including myself on the night of the sexual assault injury; December 26, 2019. The second scheduled employee finished their shift at 8pm. It was an hour before closing, I was left to complete all closing tasks subsequently close the store at 9pm. Within the hour, among the completion of other closing tasks, I started vacuuming the foyer. As I continued to vacuum, I noticed the assailant approaching to exit the store. With the vacuum in my right hand and supporting and or holding the door open with my left hand, in addition to approaching to exit the store, the assailant proceeded to sexually maul my posterior. This is not to be misunderstood and interpreted in similarity to the defense’s indefensible description of merely a “*touch, pat and or pad*” of my posterior. (F. C Hearing Tr. Pg. 3:1-25, 4:1-25) While tightly groping-fingers intimately unwanted on the inside of my posterior, pulling and tugging on the right cheek of my posterior in a forward and backward motion the assailant stated “*that’s a big ole butt, you got a big ole butt*”, the actual depiction of the perpetrators hand placement and immoral sexual behavior is not portrayed in its entirety on the video footage due to the camera placement at the time the recording took place and the assailants body positioning. (Defendants Exhibit G). It was painfully uncomfortable, socially abnormal and

privileged. According to section 42-1-160, Landford vs. Clinton Cotton Mills 204 S.C. 423 (1944), the workplace sexual assault may have not resulted in an MRI, CAT scan and or other medical imaging nevertheless all of which are not required per burden of proof as the willful-unwanted, videotaped immoral touching of the perpetrator constitutes an injury by accident within the meaning of the act. One does not have to accrue unnecessary medical bills, on part-time income, to substantiate workplace sexual assault. That is not the only medium to warrant justice? (F. C. Hearing Tr. Pg. 6:1-25). There was this creepy laugh that ensued as she later exited the store. I can still feel the assailants disgusting hands on me. I can still hear the disrespectful, yet humorless laugh of the assailant as she proceeded to exit the store. There was no collaboration, on my behalf, in humor. (Defendants Exhibit G). There was no time to react nevertheless I was struck with a wave of fear that is perceived outwardly and mocked by defense as little to nothing. Suppressed fear, anxiety, the fight or flight response was definitely activated but yet I had a huge responsibility of closing the store, including thoughts of returning home to my daughter. With pressurized self-control, one of two big responsibilities that were contingent solely on performance, I managed to close the store successfully which created no further liabilities for my CVS employer. (F. C. Hearing Tr. Pg. 4:13-20). The second and most important responsibility, I returned home to my daughter. Trying to make sense of everything that transpired over the course of my recent shift, phone conversation with a highly regarded familial confidant and reassurance on the basis of “assault”, I was assaulted again. Anxiety crept in like a thief in the night. I had no profound knowledge as to how to handle this properly. I had no idea of what to do. I had no idea as to whom to call. There were no known limitations for what I was forced to experience. I did not have legal nor financial resources nor a legal manuscript readily available to defend myself. Having no knowledge, legal advice and any other pertinent resources for mitigating this assault had me overwhelmed with anxiety of being left to endure reality. I was subjected cruelty by way of my CVS employment. I was left to endure the assault without causation and remedy. I have never experienced this before yet I was engulfed in an enormous amount of anxiety and fear. I was assaulted and there was no one there to protect me. There was no CVS security. I was there, the last open operating hour of the store, alone. Four days later, seeking support for the assault, I notified the store supervisor on December 30, 2019, which was the next shift Mrs. Robyn Hanna and I shared. (F.C. Hearing Pg. 4:17-20) (APA #2). Mrs. Hanna wasn't

very knowledgeable in regards to providing support, in lieu of the assault Mrs. hanna stated “had I been here when she did that to you, I would have said something to her” and then provided information about the CVS Employee Assistance Program (EAP). Mrs. Hanna’s defense testimony later contradicts her previously expressed sympathy and encouragement. (APA #10). Through the CVS EAP program I was connected to Linda Davis, MA, LPC, and SAP, which provided my initial introduction to counseling. Counseling with Linda Davis was no relief, inconsistent and significantly impacted and or interrupted by and at the peak of COVID-19. Linda Davis cancelled all remaining appointments due to COVID-19 isolation, stating “she wishes me the best and she hopes I get all the help I deserve”. (APA#3) With newly found clarity and confident reassertion on the situation, I felt like I was creating boundaries, standing up for myself and taking the necessary steps to fight back. I didn’t have that *fight* when I was younger, my mom was away on military duty when I was deprived of my sexual innocence. My innocence was leveraged and robbed by her eldest brother; no adolescent should have to combat memories as such. Speaking up wasn’t encouraged, having a voice was shunned upon by projecting guilt about how you were raised, being disrespectful (i.e., “being grown”) and respecting your elders. This is the beginning and my introduction of repressed trauma. (F. C. Hearing Tr. Pg. 9:1-25). Upon my mother returning, trauma was repeatedly established which was outwardly perceived as being anti-social or uncommunicative, withdrawn, angry, self-conscious because of the premature sexual grooming and overly hyper sexualized mocking ensued. I have always been mocked for being genetically full-figured. This “closed persona” has been directly shaped by my trauma hence the improper depictions of emotions. Long and silent sufferings are illustrative of the past and present trauma that has been repeated by way of employment through CVS. It’s painful to not be taken seriously. It’s as if you’re not taken serious until there is some sort of horrific event that transpires as a result of those sufferings. You’re forced to remain in the shadows of insensitive mocking: “you’re one of how many, no one actually cares, you’re a liar, it never happened, why you never said anything, alleged assault, alleged injury, alleged pre-existing condition and or you are not suffering from post-traumatic stress disorder”, disregarding the obvious cry for help. The desire to be selfish, there is no room to be selfish, I have a child to raise. (F. C. Hearing Tr. Pg. 9:1-25). My single mother’s military absence left me vulnerable and subjected me to negligence that I was not old enough to protect myself from yet her aspirations to advance

our socioeconomic status at that time was pure. My mother has always had a high regard for family and thus never imagined the sexual predatory behavior from a relative as close as her eldest brother. I have been coping the best way I know and or trying to positively managing my trauma (i.e., focusing on, protecting my daughter from my harsh realities and providing her a safe livelihood with hyper awareness and open communication to prevent the same narrative); taking my mind away from my repressed trauma was my ideology of healing but hasn't been deemed proper in review of psychologist consultations attempted through CVS EAP, psychology prescriptions of my attending physician, and personal efforts of seeking help through Brenda Graham of Savannah, Georgia and various submitted documented assistance. (APA #3, #4, #6, #11). The CVS assailants' immoral sexual behavior places me back in a spiraling-dark tunneled mind frame, all my years I have been positively trying to overcome through aspirations to change the narrative. (Defendants Exhibit I). The CVS assailants' painful physical assault, created mental anguish I was shockingly unprepared for, I assure you that this incident affected me physically and mentally. I am vacuuming, performing closing tasks according to my job description and then subjected to a highly unusual, willful, unwarranted, unwanted, unsocial and highly extraordinary sexual assault. This incident has changed my life forever. (F. C Hearing Tr. Pg. 10:1-2). As events of this assault takes shape, post assault, I am psychologically strained, tortured and physically weary. Struggling to remain in the fight of standing up for myself, with thoughts of my daughter being my only motivation to live. Trying to fathom my life and all of its current events. (F.C. Hearing Pg. 4:13-20, 5:18-25). I'm an adult now, no one has ever stood up for me. I contacted the authorities, police report was drafted on January 5, 2020.

(APA#2). The attending officer, suggested I should have taken matters into my own hands. I did not choose violence, I did not take matters into my own hands-over and above that connotation my hands were accounted for. (Defendants Exhibit G). I expressed to the officer my concerns about taking matters into my own hands and the fact that it was just my daughter and I, no relatives, living in Florence, South Carolina. My concerns were disregarded by the officer as he confirmed "had I chose to take matters into my own hands it would have been justified". Violently taking matters into my own hands does not truly remedy the sexual assault being reported.

(APA #2). Atypical response for a warranted law enforcement employee and revered as such by myself.

Gratefully, Mr. Stephen J. Wukela, in spite of my current economic status he was graciously willing and open to

representing me going forward. (SCWCC File No.: 1923480) (F. C. Hearing Tr. Pg. 13-18:4). He believed in my injury and the evidence. It was another bout of encouragement and confidence to continue to *stand up* for myself; yielding restorative justice.

Before this incident, I was residing in Florence, South Carolina for a little more than a year. The original plan was encompassed around continuing my pursuit of dental prerequisite curriculum completion at Frances Marion University to earn a Dental Doctorate of Surgery degree as an attainable short term goal while working part-time as a CVS supervisor. My employment with CVS took some getting used, in retrospect to being a civil service employee and gross income at approximately forty-five hundred (\$4,500.00) a month, I had to get acclimated to the change in pay while aspiring to achieve short-term career goals. (F. C. Hearing Tr. Pg. 12:1-23). I adjusted accordingly and accepted that this was going to be a means of intermittently advancing in my career. To date, I have been working in the field of dentistry for 16 plus years, most of those years performed for the Department of Defense and Department of Veteran Affairs. My past financial affairs does not substantiate my character, it illustrates the storm in the midst of finding my rainbow. My goals and aspirations are completely exclusive of the workplace sexual assault claim. I am a working class, civil citizen and single mom aspiring for change. (F. C. Hearing Tr. Pg.11:10-25). (APA #7). Federal employment is not awarded to just anyone, extensive credentialing and I passed successfully. I have always been gainfully employed since the age of fifteen (15). Despite the unfortunate adversity, memory, physical and mental history of being sexually taken advantage of, I have acquired an instinctive yet psychologically unaccepted ability to endure. Not the healthiest way of overcoming trauma but I've had no other option and now I'm a mother so it makes it even more instinctively profound to persevere. I am the oldest of five, raised in a one parent household among very humble beginnings. I have managed to prevail against everything that was sent to destroy me, thoughts of the way those traumatic experiences could have destroyed me brings tears to my eyes. It took so much to come to and keep the personal realization that I am not what has happened to me. I struggle with bouts of depression and anxiety; PTSD. Working for CVS and being the victim of a sexual assault injury has forced and or ripped open an old flesh and psyche wound. A wound that I was functionally managing before being subjected to my very unusual and extraordinary work environment; getting the right cheek of my rear-end firmly grabbed, gripped

and aggressively tugged as if the intent was to tear it from my body as painfully gross. I'm back in a very dark, never-ending tunnel. Some of my darkest moments have been escaped through my faith as a believer, my daughter, my pets which I have acquired an additional emotional support animal since the assault and personal adaptive meditation which was formerly introduced as an alternative for prescription strength sedatives by Dr. Ashley Hicks now known as Dr. Ashley Hicks-Beckum. (APA #5). I've literally had to learn how to love myself again. I fight hard every day for my sanity. At the time of being sexually mauled by CVS's customer, which is unheard of, I never imagined a physical assault yielding the pain it has caused; physically and mentally. Being assaulted while working for CVS has thwarted me off my original path for acquiring short term and long term goals. The specific goals sought after during my Florence, County residence are indeed synonymous of being thwarted off my original short-term goal plans. Reflections of where I am and where I could have been had the assailant never sexually assaulted, I am often plagued with that anxiety filled realization. I would have been still living in Florence County and of course completed my undergrad prerequisite goals. I have had to seek vocational training in other industries as my current skills and expertise aren't sufficient enough to uphold the single parent livelihood for my daughter and myself. I'm ok with taking the stairs for success which properly displays personal character, standing up for what is right should never be misinterpreted as some sort of ponzi scheme additionally used as reinforcement as the basis for reversing a previously proven, compensable, workplace sexual assault order. (W.C.C File No. 1923480).

Stephen J Wukela, filed Form 50, per the incident that took place December 26, 2019. I, Takara Stewart, suffered a physical-mental, mental-mental injury as a direct result of being sexually assaulted while performing my supervisory job description for CVS. There is no specification within that job description that entails undue, harsh, hostile, sexual assault exposure as a basis of employment. The surveillance of the incident, the police report, the assailant admitting to the sexual assault, the assailant being arrested and the incident being reported within reporting timeframes to the store supervisor is documented support of this incident. (F. C. Hearing Tr. Pg. 6:1-25). Had I not been employed there, diligently working my shift extending the unwarranted interaction with the assailant thereafter *horrendously* being sexually assaulted then the claim, video footage, all its contents and transpiring contents would be nonexistent. CVS nor I intended for this physical-mental injury presented

during employment to happen but unfortunately it has subsequently presenting a highly unusual and extremely extraordinary condition for one to experience during employment among *any* employer and the mental-mental causation remnants as it is to date. I have been left to just deal with the injury aftermath, with no genuine support in spite of my personal resilient efforts provided on behalf of CVS while upholding CVS's job description. My socioeconomic status, working class and single mom struggles is tactless and indefensible. (F. C. Hearing Tr. Pg. 10:1-2). The store was closed rendering no further liabilities in spite of CVS's desensitization, three mocked offers: (1) Seven thousand dollars (\$7000.00), (2) a fifteen hundred dollar (\$1500.00) D/D clincher based settlement and (3) five thousand dollars (\$5000.00) all of which were presented to keep confidential in efforts to release CVS from all further liabilities subsequently avoiding further court processing fees alongside a mocked defense narration per the unforgettable assault experienced during the course of employment with CVS. This is an admission of liability and should be upheld justly; molestation during the course of employment which would deem contradictory to defense implications of falsification of injuries. (F. C. Hearing Tr. Pg. 11:10-25). What I experienced was not a hoax! Employees are not expendable, need I remind you the storefront is null and void without the employees. The offers ridiculed me of what I actually experienced and furthermore contends there is factual and or legally admissible evidence regarding my claimed injuries as an employee of CVS. (F. C. Hearing Tr. Pg. 10:1-25).

Efforts to remedy the social, psychological and financial effects of being sexually assaulted have been obstructed by several contributing factors: the initial peak of COVID -19, unemployment due to hostile and psychological employment stressors, relocation to the state of Georgia and the beginning of having to start over (i.e. instability). A real time revelation, during one of the most traumatic experiences in my life: I am a full time student forced to withdraw from goal oriented planned classes, I was not working part-time anymore due to an undue hardship experienced during employment, a mother, living with family and I had no money saved. (F.C Hearing Tr. Pg. 11:10-25, Pg. 12:1-23, Pg. 19:5-25). The part time income and student quarterly income was at a semi-permanent to permanent halt. I was able to relocate because my aunt, dad's sister, allocated funds for relocation. Depression transpired, at the time the only outlet was fitness, it created an absence of energy as a means to deflect the exhaustive depression I was submerged in as a direct result of being assaulted and birthing

my current circumstances. My initial CVS, EAP counseling arrangement was highly unsuccessful occurring at the peak of Covid-19. (APA #3 Pgs. 5-7). Counseling with Linda Davis was cancelled and therefore incomplete. Taking initiative to conciliate my current circumstances, I sought help from Dr. Ashley Hicks (Beckum). Dr. Ashley Hicks (Beckum) referred me to Ms. Aneta Hopkins, LPS. (APA #6 Pgs. 26-33). Counseling with Ms. Hopkins was initiated during the start of relocating to Georgia. Although I loved her approach, it was shortly rendered as ineffective because of relocation, unanswered voicemails and text messages per the relocation to Georgia. Relocating back home was not in my plans of short term goals furthermore Georgia was where I did not want to be because of past traumas. The signs were there, I cried for help and there has been no one to get it and truly understand. Being patient with the process, I made several attempts to connect with Dr. Ashley Hicks (Beckum); virtually and in person appointments. The continuity in treatment I desired was largely impacted by the relocation to Georgia; the socioeconomic disconnect primarily per the commuting basis of transportation resources was not synonymous for defiance, not committing to the workplace sexual assault claim nor defense justification of an illegitimate claim. (F. C. Hearing Tr. Pg. 18:8-25). I reiterated to her how things were going a plethora of times via emails, phone conversations and appointments. I informed Dr. Hicks of how the referral to Ms. Hopkins was not successful. She concurred that the inconsistent, no response results I shared were similar in feedback from several other patients submitted as referrals. (APA #6 Pgs. 26-33) Realistically, trying to balance everything out: effects of relocation, my daughter now districted for a new school was being home schooled because of Covid-19, I had no money, I was sexually assaulted during employment, unemployed, living in a family members home, pressures of gaining momentum with social equilibrium in the midst of pessimistic judgement from family, family growing impatient and or confrontational with the instability I was buried in and all are stemming from the one place I associate with trauma, Georgia. I was associated with multiple addresses, hotels and my truck hence the instability of relocating while aspiring to gain traction in review of the change of residence that followed the assault. (F. C. Hearing Tr. Pg. 12:1-25, Pg. 19:5-25, Pg. 20:1-8). The physical-mental, mental-mental distress was unimaginable! This was life! I was assaulted at my place of employment. I was overwhelmed with thoughts of being a failure. I had no idea of how to merely sort and begin picking up the pieces. I saw no light and it was so degrading, hopeless even. I searched for help

locally. Most days I was in and out of isolation fighting weakness and lethargy, it took a substantial physical and mental toll on me. I found Brenda Graham Ph.D., RPT. I was able to afford three (3) counseling sessions at seventy-five dollars (\$75), each on child support awarded income. I liked Ms. Graham, she had an approach that was very reassuring, calming rather. The visits with her provided the accountability I needed, she encouraged me to fight.

Dr. Jon Snipes was intentionally *hired*, payment for services rendered, by CVS's defense attorney on the basis of negligibly corroborating a defense theory. (Defendants' APA #13 Pg. 45-55). I have never met with this man in my life, he doesn't know anything about my character. Dr. Snipes' interaction doesn't compare to Dr. Ashley Hicks (Beckum), as she was able to establish a safe space to open up about the workplace assault and as a result the post traumatic episodes. Dr. Ashley Hicks (Beckum) medically certain opinion established under section 42-9-35 sufficiently justifies her opinion on the basis of aggravation of pre-existing conditions. Her opinion is more factual as she had no other underlying, defense motive outside of providing patient-centered quality care. (F. C. Hearing Tr. Pg. 8:15-25) (APA #5 Pgs. 19-24, APA #12 Pgs. 37-44). He was very hostile with questioning as a way to intimidate and manipulate me in solidifying his defense contracted services, unprepared yet inconsistent introductory brief by defense, corroborated confirming the defense centered tactics producing invalidated and incomplete documented findings. I was totally cooperative during my initial meeting with Dr. Snipes. (Defendants' APA #13). I never disconnected during the briefly scheduled video. This is not admissible evidence. His "psychiatrist" title does not confirm and or automatically permit or deem his findings as fact especially when Dr. Snipes had no factual recollection of the current workplace sexual assault and the correct sequence of events at the time of the defense arranged meeting. In review of S.C. Code section 42-15-60, Dr. Snipe's findings are not any more admissible than my *attending* physician Dr. Ashley Hicks (Beckum). (F. C. Hearing Tr. Pg. 10:4-25). I have had more office and virtual visit interactions with Dr. Ashley Hicks (Beckum) in comparison to the one, contracted, virtual visit with Dr. Jon Snipes. Dr. Jon Snipe's claims are not valid, cannot be substantiated by "seeing" me on camera once, under a strategically scheduled defense appointed video and are highly offensive as a victim of such abominable injuries. (Defendants' APA #13 Pg.

45-55). Manipulative tactics of the defense are contemptible and should not be regarded as fact furthermore as a determinant for reversing a previously awarded order. (F. C. Hearing Tr. Pg. 8:1-14).

The Department of Justice and the Workers Compensation Commission has been subjected to unconstitutional, inconsistent and unjustifiable due diligence concerning preponderance of evidence for workers *compensation claim number 1923480*. The workplace sexual assault, workers compensation claim, was justifiably ordered and now *fully reversed* on inconsistent defense narration, bias speculation, unsupported defense narration purported with inconsistent sequencing of events and socioeconomic mockery, going along with the undiplomatic defense and no regard for solidarity per justifiable remedy in claimant processing. Selective intimidation and manipulative leveraging of doctors and their degree credibility is improper. The order reversed on the grounds of the insensitive and dishonorable defense characterization mockery of a working class single mom. This is the *only* defense that was used to reverse the previously awarded order. There are a lot of speculative hearsay that were made a part of an order, presented as fact, and used to overturn the initial ruling of single Commissioner A. Taylor. The United States Worker Compensation Commission credibility is questionable because of the manipulative assertions of innumerable quotations, effectively establish a credible ruling entail not ignoring the *most* credible evidence. The highest credible evidence is the actual CVS video recording of the assailant painful and ghastly assault, including but not limited to an admission of assault by the assailant yet not enough to warrant justice for what I have endured and still fighting to overcome. No one can justify how the sexual assault injury and the effects of the injury affected the injured. No one can quantify the extent of the injuries on behalf of the injured. I was physically injured by being sexually assaulted in the CVS workplace by a customer. I am proof, as I am the victim of the workplace sexual assault. (F. C. Hearing Tr. Pg. 18:8-25). Those injures opened the door of repressed, very traumatic, mental anguish of which the assailant was not considerate and or ignorant of at the time of her willful and unjust immorally sexual behavior towards me. I have had to relive this sexual assault from Dec 26, 2019 until now which has adversely effected my mental health creating an indefinite mental injury. The assault is on a vivid, constant replay in my mind. I can still see her, I can still feel her hands-firmly gripped on my posterior and I can still hear her humorless laughter as she walked out the front door of the CVS storefront. I'll never advocate for

employment with CVS nor will I personally seek employment again. The code of ethics presented as a standard for employment is a contradiction of CVS employees workplace handbook. I exhausted every medium known as way of remedying the sexual assault in real time in the midst of trying take care of myself so that I can make a life for my daughter and I. CVS is responsible for the unusual and extraordinary sexual assault environment I was subjected to through workplace and workplace operations negligence. CVS should be ordered and inclined to provide treatment continuity to lessen the effects of the sexual assault and the debilitating physical-mental, mental-mental injuries of S.C code 42-1-160. The CVS Employee Assistance Program failed to uphold a properly executed chain of command in offering employee assistance by way of their Employee Assistance Program. (APA #1 Pgs. 1-2). The appointed representative was not effective. (APA #3). The time I was out of work was substantiated, documented by my reputable and credible, licensed attending physician which was accepted thereafter documented by my CVS employer from May 18, 2020 to November 5, 2020 which is compensable pursuant to the S.C code 42-9-10 as previously ordered in the amount of \$4,224.01. (APA #8 Pg. 36). (F. C. Hearing Tr. Pg. 17:5). The awarded contents of the initial order and the defense mocked settlement offers, in no way, constitutes adequate compensation for my physical and mental injuries. I have been painfully mocked with the reversal of the initial order including the privately emailed defense mocked settlement offers, all of which have been insensitive and regarded as highly irremediable. No justly calculated steps in acquiring relapse relief necessary to officially start coping as I have had to live through the physical injury with no remorse from CVS employment. Healing is a lifelong process, the severity of how I suffered, the extent of suffrage deserves respect and is not to be diminished.

II. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW FINDINGS OF FACT

1. I find the parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, with Takara L. Stewart being the Claimant, and SC CVS Pharmacy, LLC., being the Employer and XL Ins. America, Inc., the Carrier.
2. I find that pursuant to §42-1-40 the Claimant's average weekly wage is Two Hundred Fifty-Eight and 45/100 (\$258.45) Dollars a week resulting in a compensation rate of One Hundred Seventy-Two

and 31/100 (\$172.31) Dollars.

3. I find that pursuant to §42-1-160 the Claimant sustained physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault.

4. Notwithstanding the finding of a physical-mental injury, above; I also find that, on December 26, 2019, the Claimant sustained a compensable mental-mental injury within the meaning of S.C. Code 42-1-160.

5. I find that the accident of December 26, 2019 aggravated the Claimant's pre-existing psychological condition.

6. I find that, pursuant to §42-15-20, the Employer received notice of the accident on December 26, 2019, within ninety (90) days of the accident.

7. I find that pursuant to S.C. Code §42-15-60 the Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of this Order, and continuing for such additional time as will tend to lessen the period of disability.

8. I find that Claimant was totally disabled and entitled to benefits at the weekly rate of \$172.31 pursuant to §42-9-10 for the 24.5714 week period of May 18, 2020, through November 5, 2020; totaling \$4,224.01.

CONCLUSIONS OF LAW

1. Under §42-1-130, the Claimant was a covered Employee at the time in question; and under §42-1-140, the Defendant-Employer was a covered Employer under the Act.

2. Under §42-1-160, the Claimant did sustain a physical-mental injury by accident arising out of and in the course of employment.

3. Under §42-1-160 the Claimant did sustain a mental-mental injury by accident arising out of and in the course of employment.

4. Under §42-15-20, the Claimant gave proper notice of the accident to the Employer.

5. Under §42-15-60, the Employer is required to furnish future adequate and proper care, at

the hands of Dr. Andrea Hicks and any counselor to whom Dr. Hicks refers the Claimant.

6. Under §42-9-10 the Claimant is entitled to temporary total benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020 of the weekly rate at \$172.31; totaling \$4,224.01.

III. ISSUES ON APPEAL

The mental-mental injury was direct and proximate to the physical-mental injury sustained and exposed to while gainfully employed and carrying out a supervisor trainee position at CVS located at 3210 East Palmetto Street, Florence South Carolina 29506. It has been proven that the present physical-mental and willful workplace sexual assault was highly unusual and beyond extraordinary conditions of employment subsequently creating mental-mental injuries which compounds and inadvertently intensifies repressed childhood trauma which according to the Workers Compensation law is interpreted as a burden of proof being properly established and the previous order of Single Commissioner A. Taylor's awarded benefits are justifiably legitimate. I believe the Appellate Panel will review, correlate the actual statement and factual delegations of this claim.

1. Claimants'/Appellants' Arguments

Claimant issues on Defendants'/Respondents appeal are:

- (1) The single commissioners hearing was established based on a matter of law, factual, videotaped footage confirming the physical-mental, mental-mental injury.
- (2) The workplace sexual assault was physical, willful and unwanted. The single commissioner's credibility was accountable in ruling, accurate in characterization, free from abuse and justifiably within single commissioner ruling discretion.
- (3) What substantiates and or confirms Appellate Panel reliability in retrospect to surveillance and indefensible defense narration per the reversed decision?
- (4) Did the Appellate Panel disregard justice and endorse inconsistent defense narration and intimidation per medical certainty of licensed medical providers, ignoring the confirmed physical assault?

(5) How is the a matter of law mistaken and overlooked in finding that, pursuant to section 42-1-160, when the December 26, 2019 workplace sexual assault occurred it was a direct and proximate result of a willful and unwanted molestation by a customer at CVS?

(6) Defenses' narration characterization of the single commissioners findings and ruling as being unreliable, insignificant, insubstantial, abused discretion and or an unjustified exercise of discretion is it not disrespectful mockery to the a law abiding commissioner and of course an indirect implication of the Appellate Panel?

(7) Doesn't the indefensible narration, inconsistent depiction of workplace sexual assault sequence of events, and accusing the single commissioner of workers compensation ruling abuse propel the law governing the complete Workers Compensation Commission including but not limited to the Appellate Panel under review for abuse of discretion?

(8) What is erroneous about the single commissioners ruling that is portrayed on store surveillance and testified as fact by the perpetrator and claimant confirming section 42-1-160?

(9) The single commissioner ruling upholds law in finding the willful yet unwanted workplace sexual assault was severely unusual and highly extraordinary by way of employment, per commissioning solidarity did the Appellate panel abuse discretion?

(10) The single commissioner ruling upholds law in finding the willful yet unwanted workplace sexual assault of the claimant was severely unusual and highly extraordinary by way of employment and justifiably within the means of the South Carolina workers compensation act, is the Appellate Panel upheld by the same commissioning law?

(11) Did the Appellate Panel err as a matter of law in insufficiently ruling per the mental-mental injury claimant was subjected to by willful yet unwanted workplace sexual assault was severely unusual and highly extraordinary by way of employment?

(12) Did the Appellate Panel implement indefensible defense narration by way of an erroneous and unjustified ruling discretion to reverse a single commissioner's order?

- (13) Did the Appellate Panel disregard the CVS surveillance footage and the warranted implications as a direct and proximate result of what the footage confirms?
- (14) Did the Appellate Panel disregard the direct and proximate psychological impediments including but not limited to PTSD?
- (15) Disregarding the implications of the video footage, is that conclusive and synonymous of the Appellate Panel agreeing with inconsistent, indefensible defense narration subsequently abusing discretion and dismissing justice?
- (16) In retrospect PTSD being diagnosed by a psychologist, Did the Appellate Panel disregard justice and endorse inconsistent defense narration and intimidation per medical certainty of licensed medical providers, ignoring the confirmed physical assault?
- (17) Does the reversed order confirm the Appellate Panels' disregard for law with the dismissal of facts surrounding the willful and yet unwanted workplace sexual assault of the claimant; severely unusual and highly extraordinary by way of employment and justifiably within the means of the South Carolina workers compensation act?
- (18) Dismissing the assault on the basis of indefensible defense narration is that synonymous for Appellate Panel confirming that the workplace sexual assault and video footage never happened?
- (19) Dismissing the assault on the basis of indefensible defense narration is that synonymous for Appellate Panel confirming that the workplace sexual assault and video footage, the mental-mental injury claimant was subjected to by willful yet unwanted physical workplace sexual assault had no direct and proximate psychological effects?
- (20) Appellate Panel confirming that the workplace sexual assault and video footage, the mental-mental injury claimant was subjected to by willful yet unwanted physical workplace sexual assault had no direct and proximate psychological effects, how is that justifiable and completely exclusive of discretion abuse?

- (21) Did the Appellate Panel err the only factual evidence, coincide with indefensible defense narration and inconsistencies of workplace sexual assault events and provide a partial ruling in regards to the mental-mental injury as a direct and proximate physical workplace sexual assault?
- (22) To what degree of PTSD, anxiety and or suppressed emotions are required to be displayed to substantiate the current and repressed PTSD?
- (23) Did the Appellate Panel abuse discretion based on the indefensible narration purported to manipulate, coerce and project intimidation through licensure of physicians and counselors?
- (24) Would it be deemed justified by the Appellate Panel to disregard implications of video footage and testimonies regarding workplace sexual assault and execute discretion on the basis of non-criminal activity and improper defense characterization of the working class?
- (25) Are the code of ethics considerably different for citizens, private and government officials?
- (26) Are not the code of ethics held at an even higher regard for government officials?
- (27) Does the Appellate Panel agree or disagree that workplace sexual assault is perverse, unusual and extraordinary to be subjected to during employment?
- (28) Indefensible defense narration, claimant claim mocking and insensitivity towards current past traumas are tactless, did the Appellate Panel use the inconsistent narrative to compel a reversed order?
- (29) Did the Appellate panel err the medical certainty of a psychiatrist, with no previous interaction, in comparison with an attending physician as a basis for reversing a previously awarded order?
- (30) Was the Appellate Panel misinformed about the medical certainty of Dr. Ashley Hicks (Beckum), the rapport built with the claimant as it pertains to patient-centered treatment and the referral of psychiatric treatment?
- (31) The discretion of the appellate panel is inconclusive, was the appellate panel made aware of the psychological consultations per the psychology referral issued by claimants attending physician?

(32) Has the Appellate Panel disregarded commission solidarity in justly remedying the physical and willful workplace sexual assault as the current and revision of past trauma initiated the mental-mental injury which is a direct and proximate result of the unwanted physical assault?

(33) Per section 42-9-35, did the Appellate Panel err or dismiss pre-existing conditions with no regard to the video confirmed assault, testimonies, medical certainty of attending physician subsequently neglecting to acknowledge the current workplace sexual assault conditions being regarded as unusual and extraordinary per employment and the implications thereof on previous trauma in regards to a collective remedy, preferred and sustainable psychological healing as a direct and proximate result of the physical-mental workplace sexual assault?

(34) What does it take to have pre-existing conditions constituted, considered and accepted before PTSD becomes a graphic depiction of claimants' statement of the case?

(35) Did the Appellate Panel fail to recognize the physical assault on surveillance, reported on the police report and confirmed by the perpetrator thus neglecting to accept the mental-mental injury of the South Carolina code section 42-1-160?

(36) Did the Appellate Panel fail to provide justice solidarity the claimant being told she was not required to be in attendance of the May 8, 2023 hearing via zoom?

(37) Did the Appellate Panel make an inconsistent, unwarranted and unjustifiable ruling per the inconsistent defense narration as to the sexual assault events were not accurate?

(38) Who can better state the case to the Appellate Panel than the actual victim of the workplace sexual assault?

(39) Did the Appellate Panel fail to establish the continuity of treatment was impeded on by the relocation to Georgia?

(40) Did the Appellate Panel concur and enforce an order with purported, indefensible defense narration regarding claimant admittance of being physically injured?

CONCLUSION

I contend for the reasons asserted, the Appellate Panel should review the reversed decision of the Workers Compensation Single Commissioners' hearing initially filed on January 19, 2023. I sustained a compensable physical-mental injury and a compensable mental-mental injury for which the January 19, 2023 order granted temporary total disability and medical benefits. This is appeal was submitted to state the actual facts of the claim by the victim. I have been denied compensation on the basis of bias speculation, unsupported defense narration purported with inconsistent sequencing of events and socioeconomic mockery, and respectfully an inconsistent Workers Compensation Commission order ruled with no solidarity in justice to appropriate remedy of misconduct of claimant workplace sexual assault.

Respectfully submitted,



Takara L. Stewart
Pro Se
108 E York Street Suite 236
Savannah, Georgia 31401
(984) 215-1812

November 30, 2023

NOTICE OF APPEAL IN A CIVIL CASE
THE STATE OF SOUTH CAROLINA

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Nov 30 2023

SC Court of Appeals

In The Court of Appeals
In The Supreme Court

WORKERS COMPENSATION COMMISSION PANEL:

Cynthia C. Dooley, Chair

T. Scott Beck

Melody L. James

Appellate Case No. 2023-001264

Takara L Stewart

Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,
Employer and


XL Insurance America Inc.,
Carrier

Defendants/Respondents

PROOF OF SERVICE

I certify that I have submitted a copy of the initial brief delegation for Appellate Case No. 2023-001264. A copy of this brief has been served to employer South Carolina CVS Pharmacy, L.L.C and carrier XL Insurance America Inc., by submitting a copy of it by way of email on November 30, 2023, addressed to the attorney of record, Michelle D. Yarbrough, myarbrough@gwblawfirm.com.

November 30, 2023



Takara L. Stewart
108 E York Street
Suite 236
Savannah, Georgia 31401
(984) 215-1812
Pro Se