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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals
In The Supreme Court

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WORKERS COMPENSATION COMMISSION PANEL:

Cynthia C. Dooley, Chair
T. Scott Beck
Melody L. James

_____

WCC No. 1923480

Appellate Case No. 2023-001264

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Takara L Stewart — Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,
Employer and
XL Insurance America Inc.,
Carrier

Defendants/Respondents

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Return

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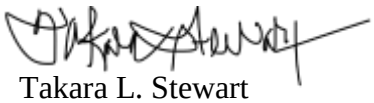
September 9, 2024



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Pro Se

Arguments regarding (SCACR 240, 208, 209, 210, 267, 269) form noncompliance and or procedural deficiencies, your plight regarding unintelligibly responding to the issues on appeal for which you intelligibly interpret and restate a response to, persistent mockery and a bias claim of circular prejudice. What is actually being defended here? The Respondents have no defense, desperate purported and paid defense narration portrayed as actual evidence. It seems as though the Respondents arguments have been deflected from indefensible defense to leveraging an Esquire title to their advantage. ***I am not a lawyer***. I am the victim of a third-degree workplace sexual assault. There is no way in justice you can say a videotaped sexual assault did not occur for which on countless there has been attempts to remedy and or dismiss the liability by way of compensation. This is highly contradictory to the entire Single Commissioner A .Taylor's[1] decision on appeal. Respondents have diverted their indefensible defense of immoral, unusual, gross and extremely extraordinary workplace sexual assault to an Esquire vs a Pro Se Litigant argument in hopes to sway and or protect an unjustifiable reversed ruling for an additional adverse court ordered decision.

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1 **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.

ARGUMENT

I. As a Pro Se Litigant, organized and intelligibly succinct as referenced and presented to the lower courts, the following were provided within the Designation of Matter and respective to the Initial Brief: Initial Brief (*five roman numeral numbered sections*), Table of Contents, Issues on Appeal, Statements of the Case which are defined by a subset of numerical and alphabetized bullets giving a defined single-commissioned and full-commissioned transcript correlated arguments per standard of review which is contrary to the Respondents statement of a recitation of allegations, and a clear cut conclusion per the arguments depicted by the lowercase roman numerals subsequently stating relief. The documents were signed for certifying that no matter submitted was irrelevant to the appeal. To date, every attempt to acquire justice for immoral employment sexual assault has been threatened by indefensible defense tactics depicted by striking relevant evidence to the record on appeal.

II. "*Appellants improper record citations have greatly hindered Respondents' and Court's ability to understand and intelligibly and responsibly respond to the issues Appellant raises*". The respondents concur that there is no defense to the appeal on record. The Respondents further confirm and affirm the following Appellants Initial Brief Arguments/Assertions: Bias Speculation and Unsupported Defense Narration with Inconsistent Sequencing of Events. The Respondents restate the arguments, intelligibly respond and makes corrections per cited transcripts which are bulleted and made bold yet proceeds to cite the excerpt as

improper (i.e., “she *didn’t* appear hurt on the camera”), all of which are. Respondents display and confirm proper citations within an Initial Brief and Designation of Matter claimed as deficient. If the Respondents are indeed making presumptions on what is being argued, it’s safe to say to “presumptively” respond to “presumptive arguments” for which you state were improperly stated on the Designation of Matter yielding an improper Initial Brief and improper citations for which defense makes references and responses to hypocritically contradicts defense speculative narration prompting motions to strike and or dismiss because “*…the brief have prohibited Respondents from discerning which portions of the brief or Designation of Matter, if any, should survive a motion to strike*” which further contends the unsupported and indefensible motive of capitalizing on Pro Se Litigation. Leveraging an Esquire title and hypocritically stating inaccuracies with what are stated as “accurate” responses to leverage a dismissal and unjustifiable win by way of blatantly stating you don’t intelligibly understand the Initial Brief yet the motion filed clearly depicts otherwise, ironically in retrospect of the current motion to strike and or dismiss. The lengths that defense have gone to in efforts to solidify defense is desperately hypocritical and highly exemplary of indefensible defense. The record on appeal is for a workplace sexual assault, not a Pro Se Litigant, victim of the immorally, gross workplace sexual assault in the third degree.

III. The Mockery persists “Appellant failed to do so…”, or “…She cannot overcome”, “*First portions of Appellant’s Statements of the case are not factual*.

Rather, it is a recitation of her allegations" *I am not a lawyer*, I am a victim of workplace sexual assault (*December 2019),* third degree by way of CVS employment seeking compensable restitution originally ordered by the Single Commissioner A. Taylor, never awarded per the reversed Full-Commissioned Appellate Panel Decision and Order of May 8, 2023. My ignorance per litigation form and procedures shouldn't be leveraged as defense. Again, I signed certifying that any and all information petitioned as evidence and presented to the courts have been relevant to the record on appeal. The respondents have been made aware of all evidence and supplied copies which further implicates defense, their indefensible defense and strongly encourages the motive to strike and or dismiss.

IV. Bias claims per circular prejudice is a deceptive defense tactic of the Respondents as this cumbersome indefensible defense narration of not understanding an Appellants Initial Brief yet making *factual* references and accurate citation corrections based on the citations provided is the only circular prejudice presented in hypocrisy with the intent to overthrow the Full-Commissioned Appellate Panel.

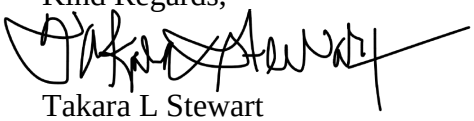
CONCLUSION

Upon review of the enumerated indefensible defense tactics, once again the Respondents are attempting to deceptively compel the Full-Commissioned Panel to dismiss the appeal by way of purported defense narration regarding a claim of not intelligibly understanding in order to respond to an appeal. The

Respondents respond to the appeal, stating the response as factual evidence to hypocritically substantiate and overthrow a Courts decision. The Respondents attempt to extort the Courts by stating "….*the only course which remedies the Appellants violations and promote fairness to Respondents is dismissing the appeal*". Fairness is justice for third-degree workplace sexual assault. The Respondents have no defense, take away the presumptive theories for which are hypocritically contradicted throughout the motion to strike and or dismiss yet are intentionally leveraged to take away what actually happened and depicted on the video surveillance. Respondents have boldly attempted to overthrow the Court's decision *again* with: Bias speculation, unsupported defense narration with inconsistent sequencing of events, hypocritical impropriety claims of not being able understand and respond intelligibly although Respondents respond with referenced inferences based on citations including but not limited to making grammatical corrections/insertions to some of the same citations stated as improper, persistent Pro Se Litigant mockery for which all are derived from an Initial Brief ironically conjectured by defense as having enumerated deficiencies.

September 9, 2024

Kind Regards,



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PROOF OF SERVICE

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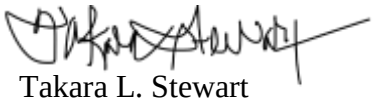
I certify that I have submitted a copy of the Return, to be included in the record on appeal on behalf of Appellate Case No. 2023-CP-001264. A copy of this request has been served to employer South Carolina CVS Pharmacy, L.L.C and carrier XL Insurance America Inc., email and certified mail, addressed to the attorney of record, Michelle Yarbrough.

September 9, 2024



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