

1 threatened me in the courtroom over the -- he was
 2 angry why I got that paper from the Dr. Potts.
 3 Because he got the months to provides that medical
 4 notes from the Dr. Potts. And Attorney Garcia, he
 5 refused and denying the lying also to provide me
 6 that the evidence for the recommendation from Dr.
 7 Potts. I went on my own that court day hearing. In
 8 -- in March, I went to -- to Atlanta, pick up that
 9 form, which I provide him, and also have a record
 10 too from Ex-Attorney Garcia, and it shows further
 11 recommendation for urological problem and hernia,
 12 which Mr. Jones ignored it, and again denying that
 13 allegation, never presented to you as -- as
 14 approved, as in his medical records. And both they
 15 agreed -- they both agree they have some doctor, Dr.
 16 Scott to evaluate me, but never referred to urology
 17 at all. As a -- as a recommendation from
 18 orthopedic, never been -- never been evaluated, and
 19 never been set up or any appointment. And they've
 20 been using Dr. Frassinelli that evaluation so is no
 21 hernia. Recently I was diagnosed with a prostate
 22 tumor, which shows is no sign of hernia as diagnosis
 23 in 2018. So that was misdiagnosed and probably
 24 possible for medical malpractice, saying that in the
 25 medical evidence. And also now it's now it's

P
P
P
P
P
P
P

X
X
X
X
X
X
X

- 1 Q. -- case?
- 2 A. Yes.
- 3 Q. Okay.
- 4 A. Never have a ---
- 5 Q. So the infection from the catheter caused the
- 6 cancer?
- 7 A. Well, you know, infection, if it's left not treated,
- 8 it will cause a prostate tumor and kidney disease
- 9 and liver disease and some other problem, which
- 10 could extend to whole entire body.
- 11 Q. Okay.
- 12 A. And it -- it's life threatening conditions for --
- 13 for lacks of depend based on the stage.
- 14 Q. And did a physician speak to that, as far as
- 15 causation in these records? I haven't read them, so
- 16 I don't know.
- 17 A. No. They never mentioned not no is the
- 18 catheterization.
- 19 Q. Okay. All right. Go ahead, sir. Is there anything
- 20 else that you need to tell me about any of these
- 21 body parts or conditions? You've covered I think
- 22 everything. We've talked about the hip. We've
- 23 talked about the prostate cancer. We've talked
- 24 about the hernia. We've talked about the kidney and
- 25 the kidney stones. Would you allege that the -- the

1 A. --- causing also kidney stone, lymph inguinal nodes,
2 and beriatrical (phonetic) hydro cells (phonetic),
3 that's all -- all is diagnosed by my family doctor.
4 He had requests that test. I complain about, and he
5 requested, and that's where it came up. Last time I
6 went to family doctor again to for refer to
7 urologist, urologist requested that -- oh.

8 **MR. JONES:**

9 And again, Your Honor. We -- we aren't getting
10 in. I wouldn't complain to you.

11 **THE CLAIMANT:**

12 The C.T. scan.

13 **MR. JONES:**

14 I'm going to object to hearsay. *P*

15 **THE CLAIMANT:**

16 C.T. scan, which ---

17 **COMMISSIONER BARDEN:**

18 Hearsay. *P*

19 **THE CLAIMANT:**

20 --- is prostate.

21 **EXAMINATION RESUMED BY COMMISSIONER BARDEN:**

22 Q. *P* Don't tell me what any doctor said, okay? Just you
23 can tell me what kind of treatment and evals you *P*
24 had. I just want you to point to me a record, when
25 I asked you if there was any, if you had a causation

1 P statement or opinion, as to how the tumor spread to
2 the gallbladder, but you've just -- that's your --
3 your belief? P

4 A. Because that -- that's -- that's my so ---

5 Q. That's your belief?

6 A. Since there's no previous condition. X

7 Q. Right. P

8 A. And I know there's no history and all was that and
9 everything.

10 Q. Okay. No pre, prior gallstones? P

11 A. Correct. No prior P

12 Q. All right.

13 A. --- evidence from diagnosed.

14 Q. All right. I'm going to let Mr. Jones follow up on
15 all of these things I've asked you or that you've
16 testified to.

17 **COMMISSIONER BARDEN:**

18 Mr. Jones, do you have any follow-up questions,
19 or are you ---

20 **MR. JONES:**

21 Yes.

22 **COMMISSIONER BARDEN:**

23 --- satisfied with the cross-exam you've
24 already engaged in.

25 **MR. JONES:**

1 Well, just he -- well, just a couple of
2 questions.

3 **COMMISSIONER BARDEN:**

4 All right.

5 **REDIRECT EXAMINATION BY MR. JONES:**

6 Q. Number one, you -- you have gone to see two
7 urologists, correct?

8 A. Correct.

9 Q. Dr. Hinnant and Dr. Seiler?

10 A. Correct.

11 Q. Okay. And then number two.

12 **MR. JONES:**

13 I just wanted to go to page 18 -- 17, excuse
14 me, of the deposition, Your Honor.

15 **COMMISSIONER BARDEN:**

16 Oh, okay.

17 **MR. JONES:**

18 Line 20.

19 **REDIRECT EXAMINATION RESUMED BY MR. JONES:**

20 Q. And you can look right here (indicating). This is
21 your sworn testimony. I asked you, "So you tripped
22 over the pallet and fell on your right hip?" And
23 your answer was, "correct"; is that right?

24 A. Yes. Yes.

25 Q. Then I asked you, "And was that on the floor?"

1 other than your right hip, did you hurt anything
2 else in the fall?" And what was your answer under
3 oath?

4 A. Yes. I said, "No."

5 Q. Oh, wait a minute. You said "No," correct?

6 A. Yes. I never mentioned that I -- I -- I -- I hurt
7 my left back, because if I laid the whole body, it's
8 obviously I'm going to lay on the whole body. I
9 can't just land on my head, laying on the floor.

10 **THE CLAIMANT:**

11 So Mr. Jones, what he's saying, he's saying,
12 try to interfere with that, and trying to say I lied
13 under oath. I did not hear but him. When you have
14 a hip trauma, it's not like somebody is going to hit
15 you with a -- with a baseball bat on your hip. When
16 you fall on the right hip, you fall on the whole
17 body on the right side, but I did provide that
18 correct, yes. And I do not remember ever hit other
19 -- other part of the body, so I said "No." Yes.

20 **COMMISSIONER BARDEN:**

21 Okay.

22 **MR. JONES:**


23 I have no other.

24 **COMMISSIONER BARDEN:**

25 Anything else, gentlemen, before we conclude

DECISION AND ORDER OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1708689

 Employee,
Claimant,
vs.
NUTRA Manufacturing, Inc.,
Employer,
and
Sentry Casualty Company,
Carrier,
Defendants.

HEARING:

Held in Aiken, South Carolina on October 22, 2020.

APPEARANCES:

Claimant unrepresented by counsel.

Defendants represented by Jeffrey S. Jones, Esquire
of Willson Jones Carter & Baxley, P.A., Greenville,
South Carolina.

PURPOSE OF HEARING:

To determine the issues as set forth on the Form 21.

DECISION AND ORDER:

By Susan S. Barden, Commissioner

FILED:

November 25, 2020

I. APA SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence at the time of the Hearing, without objection from Claimant:

- ~~X~~ Defendants' APA #1: Records of Med Central Health Resources, dated 6/28/17 – 3/19/18, ~~X~~ consisting of pages 1 – 18.
- Defendants' APA #2: Records of Greenville Hospital System, dated 6/25/17 – 3/7/18, consisting of pages 19 – 39.
- Defendants' APA #3: Records of AnMed Health (Prior & Current), dated 8/18/15 – 7/4/17, consisting of pages 40 – 57.
- Defendants' APA #4: Records of Dr. Todd Swathwood – Blue Ridge Orthopaedics Associates, P.A., dated 7/20/17 – 3/1/18, consisting of pages 58 – 84.
- Defendants' APA #5: Reports of Dr. Charles W. Hinnant (urology), dated 11/22/17 – 12/6/17, consisting of pages 85 – 96.
- Defendants' APA #6: Records of Dr. Jason Folk – Steadman Hawkins Clinic of the Carolinas, dated 3/14/18 – 4/17/18, consisting of pages 97 – 107.
- Defendants' APA #7: Records of ATI Physical Therapy, dated 7/31/17 – 10/4/17, consisting of pages 108 – 132.
- Defendants' APA #8: Records of Anderson Radiology, dated 6/30/17 – 1/15/18, consisting of pages 133 – 139.
- Defendants' APA #9: Records of Maureen Joyce Cook, NP, dated 1/9/18 – 1/17/18, consisting of pages 140 – 147.
- Defendants' APA #10: Records of Carolina Cardiology, dated 3/16/18 – 3/30/18, consisting of pages 148 – 153.
- Defendants' APA #11: Records of St. Francis Downtown, dated 4/1/18, consisting of pages 154 – 165.
- ~~X~~ Defendants' APA #12: Records of Dr. B. Shay Koch – Piedmont Orthopaedic Associates, dated ~~X~~ 4/13/18 – 4/26/18, consisting of pages 166 – 171.
- ~~X~~ Defendants' APA #13: Records of Innervision Medical Imaging – Grove, dated 4/24/18, consisting ~~X~~ of pages 172 – 175.

Defendants' APA #14: Records of Daniel Gerscovich – Carolina Orthopaedic and Neurosurgical Associates, dated 4/19/18, consisting of pages 176 – 179.

~~X~~ Defendants' APA #15: Records of Dr. Michael O'Boyle – Carolina Orthopaedic Center, P.C., dated 9/25/18 – 12/14/18, consisting of pages 180 – 185. ~~X~~

Defendants' APA #16: Records of Dr. R. Kirk Seiler – AnMed Health, dated 2/25/19, consisting of page 186.

Defendants' APA #17: Records of Dr. James Behr – Carolina Orthopaedic and Neurosurgical Associates, dated 4/29/19 – 5/14/19, consisting of pages 187 – 194.

~~X~~ Defendants' APA #18: Records of Dr. Christopher A. Potts - Unauthorized, dated 10/13/19 – ~~X~~ 1/6/2020, consisting of pages 195 – 200.

Defendants' APA #19: Records of Dr. Paul Frassinelli, dated 12/18/19 – 8/3/2020, consisting of pages 201 – 206.

Defendants' APA #20: Records of Dr. Glenn Scott, dated 6/3/2020 – 8/25/2020, consisting of pages 207 – 213.

Defendants' Exhibit #1: Deposition Transcript of Claimant, dated 7/22/19.

The following records were submitted by Claimant for the first time on the date of the Hearing and were admitted into evidence over the objection of Defendants:

~~X~~ Claimant's APA #1: Records of Dr. Sidharth C. Patel – Paradigm Medical Services, dated ~~X~~ 6/19/17 – 6/26/17, consisting of pages 1 – 6.

Claimant's APA #2: Records of Paradigm Medical Services (statement receipts), dated 1/8/18 (statement date), consisting of pages 7 – 10.

Claimant's APA #3: Records of Anderson Radiology, dated 6/26/17 – 6/30/17, consisting of pages 11 – 13.

Claimant's APA #4: Records of AnMed Health – AH MC Hospital, dated 7/4/17, consisting of pages 14 – 17.

Claimant's APA #5: Records of Greenville Health System, dated 2/22/18 – 4/1/18, consisting of pages 18 – 27.

Claimant's APA #6: Records of St. Francis Downtown Emergency Department, dated 4/1/18, consisting of pages 28 – 36.

- Claimant's APA #7: Records of South Carolina Diagnostic Imaging – Innervision Medical Imaging Grove, dated 4/24/18, consisting of pages 37 – 38.
- Claimant's APA #8: Records of Carolina Orthopaedic Center/Dr. Michael J. O'Boyle, dated 9/25/18; 12/14/18, consisting of pages 39 – 40; 62.
- Claimant's APA #9: Records of Elite Integrated Therapy Centers, dated 11/15/18 – 12/14/18, consisting of pages 41 – 61.
- Claimant's APA #10: Records of Dr. Greg Joseph Hawkesworth, dated 4/29/19, consisting of pages 63 – 64.
- Claimant's APA #11: Records of Dr. Yashbir Tony Rana (CV and Evaluation), dated 7/1/19, consisting of pages 65 – 71.
- Claimant's APA #12: Records of Northside Hospital/Dr. Christopher Potts, dated 8/19/19, consisting of pages 72 – 74.
- Claimant's APA #13: Records of Dr. Gregory Randal Bryant (Renal Ultrasound), dated 8/30/19, consisting of pages 75 – 76.
- Claimant's APA #14: Records of Northside Hospital/Logan Pierce, PA-C, dated 2/10/2020, consisting of pages 77 – 79.
- Claimant's APA #15: Records of South Carolina Diagnostic Imaging – Anderson Radiology, dated 9/16/2020, consisting of pages 80 – 81.
- Claimant's APA #16: Records of Georgia Urology/Dr. Stephen Overholser, dated 9/22/2020; 10/13/2020, consisting of pages 82 – 90.

(Remainder of page intentionally left blank.)

✕

bronchoscopy with lavage and biopsy. Claimant was diagnosed with “bilateral pulmonary ✕
✕ masses with cavitation probably COPD;” (b) Claimant underwent an appendectomy after ✕
which he developed peritonitis and for which he underwent exploratory surgery. He was
diagnosed with inflammatory bowel disease with remote history of enterocolitis; other
medical evidence notes Claimant’s history of diverticulitis, appendectomy, and colon
resection. Claimant continues to have “colonic diverticulosis” without diverticulitis. He
also has an anterior abdominal wall “*incisional* hernia” containing a small volume of fat
without acute inflammatory change; and (c) although Claimant did not plead his back at
the Hearing, he has told various providers that he attributes back pain to the accident. Prior
to the injury in issue, Claimant received treatment in New York for a herniated lumbar
disc. Dr. Rana’s report stating that Claimant’s only prior surgery was an appendectomy is
not accurate [emphasis added] (Defendants’ APA #3, pages 40-41, 43-44, and 52;
Defendants’ APA #19, page 202; Defendants’ APA #2, page 33; Defendants’ APA #9,
pages 141-142; Defendants’ APA #10, page 149; Defendants’ APA #5, page 90;
Defendants’ APA #6, page 98; Defendants’ APA #11, pages 154-155; Defendants’ APA
#14, page 176; Defendants’ APA #16, page 186; Defendants’ APA #17, page 187;
Claimant’s APA, pages 19 and 68).

21. As to the chest/heart, medical records from the date of the accident (June 15, 2017) through
December 2017 (*i.e.*, **6 months of records from multiple providers**) document
Claimant’s (a) denial of chest pain or palpitations, and (b) uneventful chest/heart
examinations. These records are inconsistent with Claimant’s statement to Dr. Folk that
he experienced chest pain from the date of the July 2017 surgery. Inconsistently, Claimant
told Dr. Kmonicek that his chest pain began in November 2017. However, none of the

forth herein), Defendants are not required to provide any further benefits for the right hip (e.g., Defendants' APA #17, pages 188-189; Defendants' APA #20, page 213).

80. Claimant has failed to prove by a preponderance of the evidence that he is entitled to any further medical benefits, any award for serious disfigurement or any other compensable element under the law, other than the award for disability as ordered herein. This finding is based on the evidence in the record as a whole, including but not limited to the APA submissions by Claimant and Defendants, the hearing and deposition testimony of Claimant, and the evidence set forth in the Findings of Fact herein.
81. Defendants shall receive credit for overpayment of temporary benefits paid beyond June 3, 2020.
82. Claimant's average weekly wage is \$655.67, yielding compensation rate of \$437.13.

VI. CONCLUSIONS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant sustained an injury to his right hip by accident arising out of and in the course and scope of his employment on June 15, 2017.
3. Under § 42-9-260, Defendants were entitled to stop payment of temporary compensation on June 3, 2020, the date on which Claimant reached maximum medical improvement.
4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until June 3, 2020, the date on which Claimant reached maximum medical

improvement, but not thereafter, there being no evidence that any additional medical treatment would tend to lessen the period of his disability.

5. Under § 42-9-30, Claimant has sustained 7% permanent partial disability to the right hip. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since June 3, 2020, pursuant to § 42-9-210.

VII. ORDER/AWARD

IT IS HEREBY ORDERED that the Application of Employer/Carrier to stop payment of temporary total compensation is hereby granted, effective June 3, 2020, the date on which Claimant reached maximum medical improvement.

IT IS HEREBY ORDERED that no body parts/conditions—other than the right hip – are causally related to the work injury on June 15, 2017.

IT IS FURTHER ORDERED that as a result of Claimant's accidental injury occurring on June 15, 2017, he has sustained 7% permanent partial disability to the right hip, for which Defendants shall pay to Claimant 19.6 weeks of compensation, at the compensation rate of \$437.13 per week, less a credit or offset to Defendants for the overpayment of temporary total compensation after June 3, 2020.

IT IS FURTHER ORDERED that Claimant reached maximum medical improvement on June 3, 2020, and Defendants are not liable for any additional medical, surgical, hospital or other medical treatment to Claimant after said date, until and unless further ordered by this Commission.

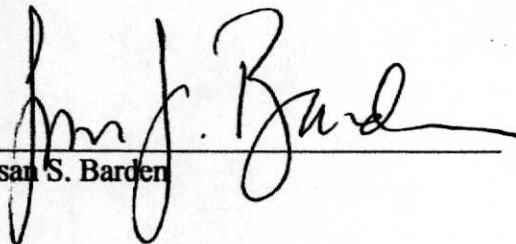
IT IS FURTHER ORDERED that Defendants shall reimburse Claimant for the right hip surgery and visits with Dr. Potts, subject to the Workers' Compensation fee schedule.

IT IS FURTHER ORDERED that Claimant is entitled to mileage for the evaluation with Dr. Glenn Scott on June 3, 2020, pursuant to the Act.

No hearing costs are assessed in this instance.

IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION


Susan S. Barden

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Barbara Skarbek on November 25, 2020

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1708689

██████████

1ST APPELLANT/CLAIMANT,

vs.

NUTRA Manufacturing, Inc.,

EMPLOYER,

AND

Sentry Casualty Company,

CARRIER,
DEFENDANTS/2ND APPELLANTS

Appellate Panel Review held in Columbia, South Carolina,
on February 22, 2021 per notices timely and properly served
upon all parties of interest.

Appellate Panel Decision and Order filed
June 22, 2021

APPEARANCES:

1st Appellant/Claimant, ██████████, of Anderson,
South Carolina, unrepresented by counsel.

Defendants/2nd Appellants represented by Jeffrey S. Jones,
Esquire of Willson Jones Carter & Baxley, P.A. in Greenville,
South Carolina.

evidence in the record as a whole, including but not limited to the APA submissions by Claimant and Defendants, the hearing and deposition testimony of Claimant, and the evidence set forth in the Findings of Fact herein.

82. Defendants shall receive credit for overpayment of temporary benefits paid beyond June 3, 2020.

83. Claimant's average weekly wage is \$655.67, yielding compensation rate of \$437.13.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant sustained an injury to his right hip by accident arising out of and in the course and scope of his employment on June 15, 2017.
3. Under § 42-9-260, Defendants were entitled to stop payment of temporary compensation on June 3, 2020, the date on which Claimant reached maximum medical improvement.
4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until June 3, 2020, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical treatment would tend to lessen the period of his disability.
5. Under § 42-9-30, Claimant has sustained 7% permanent partial disability to the right hip. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since June 3, 2020, pursuant to § 42-9-210.

6. Under § 42-15-60(A), Defendants are not required to reimburse Claimant for the unauthorized right hip surgery and visits with Dr. Potts.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that the Order of the Hearing Commissioner filed in the above-captioned matter on November 25, 2020, is hereby affirmed in part, and reversed in part.

IT IS, THEREFORE, ORDERED that the Application of Employer/Carrier to stop payment of temporary total compensation is hereby granted, effective June 3, 2020, the date on which Claimant reached maximum medical improvement.

IT IS HEREBY ORDERED that no body parts/conditions—other than the right hip – are causally related to the work injury on June 15, 2017.

IT IS FURTHER ORDERED that as a result of Claimant's accidental injury occurring on June 15, 2017, he has sustained 7% permanent partial disability to the right hip, for which Defendants shall pay to Claimant 19.6 weeks of compensation, at the compensation rate of \$437.13 per week, less a credit or offset to Defendants for the overpayment of temporary total compensation after June 3, 2020.

IT IS FURTHER ORDERED that Claimant reached maximum medical improvement on June 3, 2020, and Defendants are not liable for any additional medical, surgical, hospital or other medical treatment to Claimant after said date, until and unless further ordered by this Commission.

IT IS FURTHER ORDERED that Claimant is entitled to mileage for the evaluation with Dr. Glenn Scott on June 3, 2020, pursuant to the Act.

Remainder of page intentionally left blank.

IT IS FURTHER ORDERED that the portion of the Hearing Commissioner's Order requiring Defendants to reimburse Claimant for the unauthorized right hip surgery and visits with Dr. Potts, subject to the Workers' Compensation fee schedule, is hereby reversed.

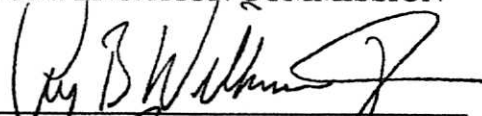
No hearing costs are assessed in this instance.

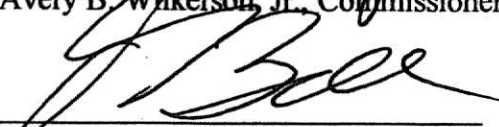
AND IT IS SO ORDERED.

**AFFIRMED IN PART
AND REVERSED IN PART**

CONCUR:

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION


Avery B. Wilkerson, Jr., Commissioner


T. Scott Beck, Commissioner



Commissioner Aisha Taylor



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
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November 21, 2024

Vasile Florin Craus
201 Knollwood Drive
Anderson SC 29625

Mr. Jeffrey Scott Jones, Esquire
108 Tinsley Court
Greenville SC 29615

Mr. Christopher Michael Cato, Esquire
500 Taylor Street
Suite 200
Columbia SC 29201

Re: Vasile Florin Craus v. NUTRA Manufacturing, Inc., et al.
Appellate Case No. 2021-000778

Dear Counsel and Mr. Craus:

After careful consideration by the Court, this case will be submitted on the record on appeal and briefs during the November 2024 term without oral argument.

Very truly yours,

A handwritten signature in cursive script that reads "Catherine S. Harrison, Deputy".

CLERK



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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November 27, 2024

Vasile Florin Craus
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Greenville SC 29615

Mr. Christopher Michael Cato, Esquire
500 Taylor Street
Suite 200
Columbia SC 29201

Re: Vasile Florin Craus v. NUTRA Manufacturing, Inc., et al.
Appellate Case No. 2021-000778

Dear Counsel and Mr. Craus:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,


CLERK

cc: Amy Bracy

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Jacquelyn Gladden and Patricia Reed, Respondents,

v.

Cyndy Reed Stewart, Appellant.

Appellate Case No. 2021-001413

Appeal From Orangeburg County
Diane Schafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2024-UP-404
Submitted 2024-UP-404 – Filed November 27, 2024

AFFIRMED

Robert Sam Phillips, of Grier, Cox, & Cranshaw, LLC,
of Columbia, for Appellant.

Margaret A. Collins and Elizabeth Dyanne Moore, both
of Palmetto State Law Group, LLC, of Columbia, for
Respondents.

PER CURIAM: Cyndy Reed Stewart appeals the Orangeburg County circuit court's order sanctioning her, granting attorney's fees to Jacquelyn Gladden and Patricia Reed (collectively, Sisters), and finding she willfully and wantonly forged

the deed to property in Orangeburg County (the Property), breached her fiduciary duty as power of attorney (POA) for Theodocia Reed (Mother), attempted to defraud Sisters, and intentionally executed a Florida POA to obfuscate the South Carolina POA. On appeal, Stewart argues the circuit court erred in (1) denying her motion to dismiss due to a lack of subject matter jurisdiction, and (2) finding she willfully and wantonly committed forgery and was liable to Sisters for attorney's fees and costs. We affirm pursuant to Rule 220(b), SCACR.

1. We hold the circuit court did not err by denying Stewart's motion to dismiss due to a lack of subject matter jurisdiction because at the time Sisters filed their complaint, the causes of action were not within the probate court's exclusive jurisdiction. *See Seels v. Smalls*, 437 S.C. 167, 172, 877 S.E.2d 351, 354 (2022) ("Questions of law involving subject matter jurisdiction . . . are reviewed de novo, without deference to the lower courts."); S.C. Const. art. V, § 11 ("The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have appellate jurisdiction as provided by law."). The claims of forgery, breach of fiduciary duty as POA, and fraud as to the transfer of the Property during Mother's lifetime did not fall within the exclusive jurisdiction of the probate court, as provided by statute. *See* S.C. Code Ann. § 62-1-302(a)(1) (2022) (giving the probate court exclusive jurisdiction over subject matter related to estates of decedents, the contest of wills, construction of wills, determination of property in which the estate of a decedent or a protected person has an interest, and a determination of heirs and successors of decedents); *Brown v. Butler*, 347 S.C. 259, 263-64, 554 S.E.2d 431, 433-34 (Ct. App. 2001) (holding a master-in-equity had subject matter jurisdiction to set aside a deed when the transferee "received legal title to the property as a result of an *inter vivos* conveyance and held title for several months before the transferor's death"); *Gardner v. Gardner*, 253 S.C. 296, 302, 170 S.E.2d 372, 375 (1969) ("The general rule is that jurisdiction of a court depends upon the state of affairs existing at the time it is invoked."); *id.* ("If jurisdiction once attaches to the person and subject matter of the litigation the subsequent happening of events will not ordinarily operate to oust the jurisdiction already attached."). Furthermore, Stewart's subsequent transfer of the Property to Mother's estate did not render the claims moot because the issues of forgery, fraud, breach of fiduciary duty, and the damages that resulted therefrom had not yet been resolved. *See Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) ("Generally, this [c]ourt only considers cases presenting a justiciable controversy."); *id.* ("A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract.").

2. We hold the circuit court did not err in finding Stewart willfully and wantonly forged the deed to the Property, sanctioning Stewart, and granting Sisters attorney's fees. *See Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976) ("In an action at law, on appeal of a case tried without a jury, the findings of fact of the [court] will not be disturbed upon appeal unless found to be without evidence which reasonably supports the [court]'s findings."), *abrogated on other grounds by Matter of Est. of Kay*, 423 S.C. 476, 816 S.E.2d 542 (2018); *Taylor v. Medenica*, 324 S.C. 200, 221, 479 S.E.2d 35, 46 (1996) ("The plaintiff has the burden of proving punitive damages by clear and convincing evidence."). There was evidence which reasonably supported the circuit court's finding, particularly Stewart's actions in executing a second POA in Florida after Mother was declared incapacitated, signing the deed under Mother's name despite acknowledging she would not do so in other circumstances, and transferring the Property to herself in contravention of previous court orders and the South Carolina POA. *See Taylor*, 324 S.C. at 221, 479 S.E.2d at 46 ("In order for a plaintiff to recover punitive damages, there must be evidence the defendant's conduct was willful, wanton, or in reckless disregard of the plaintiff's rights."); *McCourt ex rel. McCourt v. Abernathy*, 318 S.C. 301, 308, 457 S.E.2d 603, 607 (1995) ("A conscious failure to exercise due care constitutes willfulness."); *Cartee v. Lesley*, 290 S.C. 333, 337, 350 S.E.2d 388, 390 (1986) ("Ordinarily, the test is whether the tort has been committed in such a manner or under circumstances that a person of ordinary reason or prudence would have been conscious of it as an invasion of the plaintiff's rights."). Although Stewart contends the circuit court improperly found a violation of a criminal statute, thereby exceeding its jurisdictional limits, the circuit court's order did not specifically find Stewart violated a criminal statute and did not otherwise indicate the trial was criminal in nature.¹

AFFIRMED.²

THOMAS, HEWITT, and VINSON, JJ., concur.

¹ Insofar as Stewart argues the statute relied upon by the circuit court in granting attorney's fees to Sisters was not applicable to this action, we hold the issue is not preserved for review. *See State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) (holding an issue must be both raised to and ruled upon by the trial court in order to be preserved for appellate review).

² We decide this case without oral argument pursuant to Rule 215, SCACR.

The South Carolina Court of Appeals

Vasile Florin Craus, Employee, Appellant,

v.

NUTRA Manufacturing, Inc., Employer, and Sentry
Casualty Company, Carrier, Respondents.

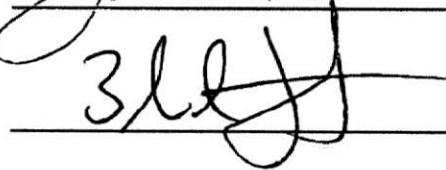
Appellate Case No. 2021-000778

ORDER

After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


_____ J.


_____ J.


_____ J.

Columbia, South Carolina

cc:
Vasile Florin Craus
Jeffrey Scott Jones, Esquire
Christopher Michael Cato, Esquire
Amy Bracy

FILED
Jan 31 2025
