

RECEIVED

Apr 03 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2022-000282

Michael K. Crowley, Employee,Movant/Appellant,

v.

Darlington County, Employer, and
SC Association of Counties SIF, Carrier,Respondents.

**MOTION FOR WRIT OF CERTIORARI
TO THE FINAL ORDER OF SC COURT OF APPEALS
AWARDING COSTS TO RESPONDENTS**

Pursuant to Rule 242(a), SCARC, the Movant/Appellant, and the injured worker, in this matter hereby Petitions the Court for the issuance of a Writ of Certiorari to review the final Decision of the SC Court of Appeals awarding Respondents costs and attorney's fees and an Order reversing that Decision. The Movant would hereby show unto the Court:

1. That this Court issued its decision on February 12, 2025, denying Appellant's Petition for a Writ of Certiorari.

2. That on February 13, 2025, the SC Court of Appeals issued a Remittitur remanding the case to the SC Workers' Compensation Commission.

3. That the Respondents timely filed a Motion for Costs and Attorney's Fees on Appeal with the SC Court of Appeals.

4. That thereafter the Appellant filed a Return to the Motion for Costs and Attorney's Fees, both of which are attached hereto as Exhibits A & B.

5. That as noted in both the Motion and the Return, the Award of Costs and/or Attorney's Fees is discretionary with the Appellate Court. As argued to the Court of Appeals and as the Movant/Appellant would argue before the Court in reference to issuing a Writ to review the Decision of the Court of Appeals and an Order reversing the Order awarding costs, this case involves an injured worker under the Workers' Compensation Act which was established for the benefit and protection of injured workers and their dependents, and involved an appeal from a Decision awarding the injured worker benefits but not to which he was entitled in accordance with law. It also involves an appeal of violation of a mandatory statutory provision requiring the exclusion of evidence if violated; SC Code §42-15-95. In its Unpublished Opinion, the Court of Appeals held that the Defendants had violated that statute but because where was other

evidence in the Record to sustain the Decision of the Commissioner, affirmed the Decision.

6. That the entire Workers' Compensation Act is designed and its provisions are geared towards a liberal construction in favor of benefits to the injured worker and to prevent injured workers who are without income due to their injuries from becoming charges upon society. For example, SC Code §42-17-60 specifically provides that after a favorable decision in favor of benefits to an injured worker the employer and/or its insurance carrier have to institute and pay compensation and medical benefits as ordered during the pendency of any appeal they may take from the Decision.

In almost all cases, the injured worker is without income to provide for the basic necessities of life for both the worker and/or the worker's dependents and to award Costs against an injured worker in a workers' compensation claim would have a chilling effect on an injured worker seeking a review of a decision of the SC Workers' Compensation Commission, and run afoul of one of its fundamental objectives to:

"relieve public and private charities of financial demands incident to uncompensated occupational accidents".

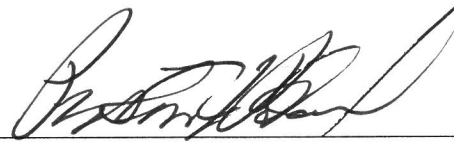
In fact, in most cases the Movant would submit the injured worker could request to proceed in forma pauperis due to the

worker's financial situation caused by the workers' compensation injury.

Therefore, the Movant, the injured worker in this matter, would respectfully request that the Court grant the Motion for a Writ of Certiorari, review the Order of the Court of Appeals awarding Costs and Attorney's Fees to the Respondents and reverse that decision, which is within its discretion to do.

WE SO MOVE.

Respectfully submitted,



Preston F. McDaniel, Bar #3770
McDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211

and

Gerald Malloy, Bar #12033
MALLOY LAW FIRM
Post Office Box 1200
Hartsville, SC 29551
(843) 339-3000

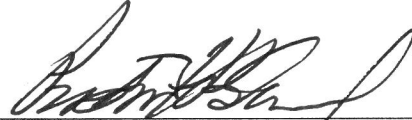
Attorneys for Petitioner/Appellant

April 3, 2025

VIA EMAIL AND US MAIL

judicial@wcc.sc.gov

Amy Bracy, Judicial Director
SC Workers' Compensation Commission
PO Box 1715
Columbia, SC 29202-1715



Preston F. McDaniel, Esquire
SC Bar #3770
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

and

Gerald Malloy, Esquire
MALLOY LAW FIRM
Post Office Box 1200
Hartsville, South Carolina 29551
(843) 339-3000

Attorneys for Movant/Appellant

Columbia, SC

The South Carolina Court of Appeals

Michael K. Crowley, Employee, Appellant,

v.

Darlington County, Employer, and South Carolina
Association of Counties SIF, Carrier, Respondents.

Appellate Case No. 2022-000282

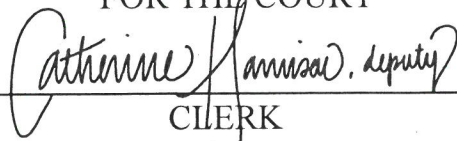
Trial Court Case No. 1716288, 1801098

ORDER

Pursuant to Rule 222 of the South Carolina Appellate Court Rules, the motion for costs filed by Respondents Darlington County and South Carolina Association of Counties SIF is granted in the amount of \$2,573.81 against Appellant Michael K. Crowley. The Workers' Compensation Commission is directed to add this award of costs to the remittitur.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

FILED
Mar 24 2025

cc:

Preston F. McDaniel, Esquire
Gerald Malloy, Esquire
Johnnie W. Baxley, III, Esquire
Amy Bracy

EXHIBIT

tabbles

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Feb 14 2025

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2022-000282

Michael K. Crowley, Employee,Appellant,

vs.

Darlington County, Employer, and

South Carolina Association of Counties SIF, Carrier..... Respondents.

RESPONDENTS' MOTION FOR COSTS ON APPEAL

Johnnie W. Baxley, III, Esquire
Willson, Jones, Carter & Baxley, PA
4922 O'Hear Ave., Suite 301
North Charleston, SC 29464
(843) 284-1082
jwbaxley@wjcblaw.com
Attorney for Respondents

Other Counsel of Record:

Preston F. McDaniel
McDaniel Law Firm
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211

Gerald Malloy
Malloy Law Firm
Post Office Box 1200
Hartsville, SC 29551
(843) 339-3000

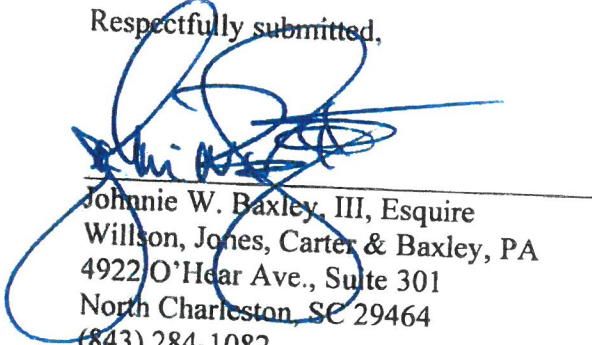


Respondents hereby move pursuant to Rule 222, SCACR, for the taxation of costs on appeal against the Appellant. The grounds for this motion are that the Respondents are entitled to the taxation of costs on appeal against the Appellant, as the following shows:

1. Rule 222(a), SCACR, provides that costs shall be taxed against the appellant when the judgment on appeal is affirmed, unless otherwise ordered by the appellate court or agreed by the parties.
2. This motion is timely. "A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule." Rule 222(d), SCACR. The remittitur was issued on February 13, 2025, less than fifteen (15) days before the service and filing of this motion.
3. The Respondents have incurred taxable costs in the amount of one hundred twenty-three dollars and 17/100 cents (\$123.17), as is shown on the attached itemized statement of costs.
4. Rule 222(b), SCACR, provides that the party entitled to recover costs shall also be entitled to recover an attorney's fee in an amount which shall be set by Order of the Supreme Court. By Order dated January 17, 2018, the amount of attorney's fee was set at two thousand five hundred dollars and 0/100 cents (\$2,500.00). (The Respondents' attorney's fees on this appeal exceeded \$2,500.00).
5. The Respondents are entitled to an Order taxing costs against the Appellant.
6. The Full Commission issued a Decision and Order on February 1, 2022, from which the Claimant/Appellant filed this appeal. The South Carolina Court of Appeals affirmed the Full Commission's decision on June 26, 2024.

WHEREFORE Respondents pray for an Order taxing costs in the amount of two thousand six hundred twenty-three dollars and 17/100 cents. (\$2,623.17), or in the alternative, in the amount deemed appropriate by the Court, against the Appellant in this appeal.

Respectfully submitted,



Johnnie W. Baxley, III, Esquire
Willson, Jones, Carter & Baxley, PA
4922 O'Hear Ave., Suite 301
North Charleston, SC 29464
(843) 284-1082
jwbaxley@wjcblaw.com
Attorney for Respondents

February 14, 2025

RECEIVED

Feb 14 2025

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. 2022-000282

Michael K. Crowley, Employee,Appellant,

vs.

Darlington County, Employer, and
South Carolina Association of Counties SIF, Carrier..... Respondents.

CERTIFICATE OF SERVICE

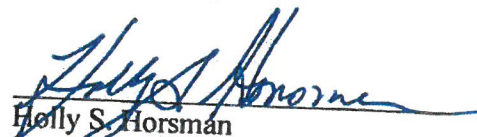
I, Holly S. Horsman, do hereby certify that I am the Legal Assistant for Johnnie W. Baxley, III, Esquire, Attorney for the Respondents with **WILLSON JONES CARTER & BAXLEY, P.A.** in North Charleston, South Carolina, and that on **February 14, 2025**, I mailed the foregoing **RESPONDENTS' MOTION FOR COSTS ON APPEAL** to the following via e-mail:

Via E-Mail Only

Preston McDaniel, Esquire, Attorney for Appellant
Gerald Malloy, Esquire, Attorney for Appellant
preston@pfmcdlaw.com
gmalloy@bellsouth.net

Via E-Mail & U.S. Mail/First Class

Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org



Holly S. Horsman
Legal Assistant to Johnnie W. Baxley, III, Esquire
WILLSON JONES CARTER & BAXLEY, P.A.
4922 O'Hear Ave., Suite 301
North Charleston, SC 29464

February 14, 2025

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2022-000282

Michael K. Crowley, Employee,Petitioner,

vs.

Darlington County, Employer, and
South Carolina Association of Counties SIF, Carrier..... Respondents.

ITEMIZED STATEMENT OF COSTS

The Appellate Court is requested to tax the following costs against:

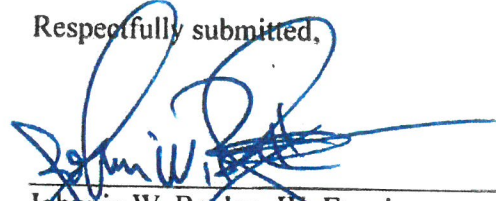
Michael K. Crowley, Appellant

Costs taxable under Rule 222, SCACR	No. of Pages	Rate	Requested	Allowed
Motion Filing Fee, dated February 14, 2025	N/A	By Order dated October 9, 2018, the filing fee for motions and petitions was set at fifty dollars and zero cents (\$50.00) for a motion filed on or after October 15, 2018. Rule 240(d), SCACR.	\$50.00	
Cost of Printing/Copying Final Brief of Respondent, Final Brief and Reply of Appellant, and Record on Appeal	Approx. 200, plus covers and bindings		\$73.81	
Attorney's fee provided by Rule 222(b), SCACR	N/A	By Order dated January 17, 2018, the amount of attorney's fee was set at two thousand five hundred dollars and 0/100 cents (\$2,500.00).	\$2,500.00	
TOTAL			\$2,623.81	

I, **Johnnie W. Baxley, III**, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was served by e-mail upon the Appellant.

[SPACE LEFT BLANK INTENTIONALLY]

Respectfully submitted,



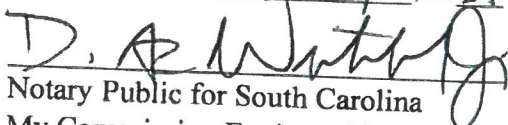
Johnnie W. Baxley, III, Esquire
Willson, Jones, Carter & Baxley, PA
4922 O'Hear Ave., Suite 301
North Charleston, SC 29464
(843) 284-1082
jwbaxley@wjcblaw.com
Attorney for Respondents

North Charleston, South Carolina

February 14, 2025

SWORN to before me this

14 th day of FEBRUARY, 2025



Notary Public for South Carolina

My Commission Expires: MARCH 22, 2028

CP | COLUMBIA & G | PRINTING & GRAPHICS

invoice

No: 70994

reprint: #-1

Date: 4/6/23

Customer PO: 31612

2238 b Sumter Street
Columbia SC 29201
803-779-1299
columbiaprinting@bellsouth.net

Ship To:

WILSON, JONES, CARTER, & BAXLEY, LLC
3600 FOREST DRIVE SUITE 204
COLUMBIA SC 29204
Gabe

Quantity	Description	Amount
1	Crowley v Darlington	\$ 42.00
Crowley v Darlington		SUBTOTAL \$ 42.00 TAX \$ 3.36 SHIPPING \$ 0.00 TOTAL \$ 45.36

CP & G | COLUMBIA PRINTING & GRAPHICS

invoice

No: 71353

reprint: #-1

Date: 6/1/23

Customer PO: 31650

2238 b Sumter Street
 Columbia SC 29201
 803-779-1299
 columbiaprinting@bellsouth.net

Ship To:

WILSON, JONES, CARTER, & BAXLEY, LLC
 3600 FOREST DRIVE SUITE 204
 COLUMBIA SC 29204
 Gabe

Quantity	Description	Amount
1	Crowley Darlington	\$ 25.75
Crowley Darlington		SUBTOTAL \$ 25.75 TAX \$ 2.06 SHIPPING \$ 0.00 TOTAL \$ 27.81

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2022-000282

RECEIVED

MAR 03 2025

SC Court of Appeals

Michael K. Crowley, Employee,Appellant,

v.

Darlington County, Employer, and
SC Association of Counties SIF, Carrier,Respondents.

RETURN TO THE MOTION FOR COSTS

The Appellate respectfully opposes the Motion for Costs as set forth hereinafter:

1. That this Appeal and the request for a Writ of Certiorari arose out of the Workers' Compensation Claim of the Appellant which was Awarded by the Commission but wherein he was not awarded total and permanent disability, either for wage loss or for having lost 50% or more of the functional use of his back. As established by the Record before the Court, the Appellant has not worked at any time pertinent to the Appeal and requested a

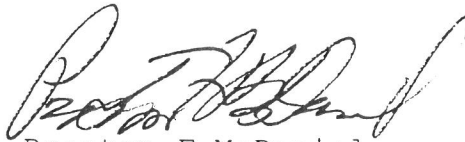


decision by the Courts awarding him total and permanent disability as a matter of Law. An Award of Costs under SCACR Rule 222(a) assessed against an injured worker would serve as a chilling effect on the right of an injured worker to seek review of the administrative decision of the Commission and would be volatile of the fundamental purposes of the Workers' Compensation Act to "relieve public and private charities of financial demands incident to uncompensated occupational accidents". An injured worker without income is in the truest sense of the word "in forma pauperis". The very reason for filing an Appeal and the Writ of Certiorari is because of the loss of earning capacity and the loss of wages that the injured worker has sustained. The Workers' Compensation Act was in part created and all the provisions of the Act are written such that time delay and financial burden, especially during an Appeal, does not serve as a basis to deny and/or oppose a claim to minimize or reduce the provision of benefits under the Act. Thus, the Award of costs against the worker as a result of the worker's appeal would have a chilling effect upon a worker seeking benefits under the Act.

2. That, as noted in the Motion and under SCACR Rule 222(a), an Award of costs is totally discretionary with the Court.

WHEREFORE, the Appellant would respectfully request that the Court exercise its discretion and deny the Motion for Costs and the Award of attorney's fees.

Respectfully submitted,



Preston F McDaniel
MCDANIEL LAW FIRM
1315 Elmwood Ave
Columbia, SC 29201
(803) 771-7211

and

Gerald Malloy
MALLOY LAW FIRM
Post Office Box 1200
Hartsville, SC 29551
(843) 339-3000

Attorneys for the Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2022-000282

RECEIVED

MAR 03 2025

SC Court of Appeals

Michael K. Crowley, Employee,Appellant,

v.

Darlington County, Employer, and
SC Association of Counties SIF, Carrier,Respondents.

CERTIFICATE OF SERVICE

I, Rose Thielke, do hereby certify that I am the Legal Assistant for Preston McDaniel, Esquire, Attorney for the Appellant with MCDANIEL LAW FIRM, in Columbia, South Carolina, and that on February 27, 2025, I mailed the foregoing RETURN TO THE MOTION FOR COSTS ON APPEAL to the following via email:

Via Email Only

Johnnie W. Baxley, III, Esquire
WILLSON JONES CARTER & BAXLEY, P.A.
4922 O'Hear Ave, Suite 301
North Charleston, SC 29464
jwbaxley@wjcblaw.com

Via Email & US Mail

Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org



Rose Thielke
MCDANIEL LAW FIRM
1315 Elmwood Ave.
Columbia, SC 29201

February 27, 2025

RECEIVED

Apr 03 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2022-000282

Michael K. Crowley, Employee, Appellant,

v.

Darlington County, Employer, and
SC Association of Counties SIF, Carrier, Respondents.

PROOF OF SERVICE

I hereby certify that I have served the following **MOTION FOR WRIT OF CERTIORARI TO THE FINAL ORDER OF SC COURT OF APPEALS AWARDED COSTS TO RESPONDENTS** on this date, April 3, 2025, addressed as follows:

VIA EMAIL AND US MAIL

jwbaxley@wjcblaw.com
Johnnie W. Baxley, III, Esquire
WILLSON JONES CARTER & BAXLEY
4922 O'Hear Avenue, Ste. 301
N. Charleston, SC 29405

VIA EMAIL AND US MAIL

ctappfilings@sccourts.org
Honorable Jenny A. Kitchings
Clerk of Court
SC Court of Appeals
PO Box 11629
Columbia, SC 29211

McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 45 years.

Preston F. McDaniel

Telephone (803) 771-7211

Daniel E. Peagler

Facsimile (803) 252-0709

April 3, 2025

VIA EMAIL: supctfilings@sccourts.org
AND US MAIL

Honorable Patricia A. Howard
Clerk of Court
SC Supreme Court
1231 Gervais Street
Columbia, South Carolina 29211

**RE: Michael Crowley v. Darlington County and SC Association
of Counties SIF
SC Court of Appeals Case No. 2022-000282**

Dear Ms. Howard:

Please find attached our **MOTION FOR WRIT OF CERTIORARI TO THE FINAL ORDER OF SC COURT OF APPEALS AWARDING COSTS TO RESPONDENTS** for filing with the Court in regards to the above referenced matter, along with the required \$50.00 filing fee (which is being mailed to you via US Mail). I would appreciate your returning a clocked-in copy to me via electronic mail.

By copy of this letter, I am serving Counsel for Respondents, the SC Court of Appeals, and the SC Workers' Compensation Commission with a copy of same.

I hope this is sufficient for filing with the Court; however if you require anything further, please do not hesitate to contact me.

Sincerely yours,



Preston F. McDaniel

PFM/kth
Enclosures

cc: Gerald Malloy, Esquire
Johnnie W. Baxley, III, Esquire
SC Court of Appeals
SC Workers' Compensation Commission