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S.C. SUPREME COURT

Patient has no known allergies.

Review of Systems

A complete 14-point review of systems was negative with the exception of pertinent positives mentioned in the HPI. A review of systems questionnaire was reviewed by the examiner, reviewed with the patient and scanned in the electronic medical chart.

Physical Exam

Ht 177.8 cm (5' 10") | Wt 82.1 kg (181 lb) | BMI 25.97 kg/m²
On examination the patient is a healthy well-developed 45-year-old gentleman resting comfortably no acute distress. His vital signs are normal as listed the chart. He is alert and oriented x3. Examination of both upper extremity shows excellent muscle definition. This consistent with someone who is regularly working out at the gym. Examination left shoulder shows 100 degrees of elevation of 45 degrees of ER and IR to T6. Left elbow has motion of 0 to 130 degrees with 90 of supination and 90 pronation. On the left side the patient resists active motion. He will elevate 29 degrees and actively resists. He again is only 20 degrees of active ER and actively resist. He is IR to L1. His elbow motion also shows full supination and pronation. Attempts at any range of motion cause significant pain that is out of proportion is what is being done. His shoulder examination shows no evidence of impingement or rotator cuff tendinitis. His A/C and SC joints are nontender. All attempts to examine the biceps cause exquisite pain up and down the entire arm both in the front and the back that is excessive to what is being done and out of proportion to what is being done and not consistent with the test being performed. His strength is intact. His shoulder is stable. His elbow is stable. Gross motor and sensory examination are intact. Peripheral pulses are palpable. Reflex are symmetrical. There is no lymphadenopathy.

Radiographic Findings

His radiographic studies are reviewed and are as noted above.

Active Problems

Patient Active Problem List

Diagnosis

- Hyperthyroidism

Date Noted

05/15/2015

Impression/Plan

The patient's complaints, physical findings and reaction to examination, and radiographic studies, are inconsistent. I feels as a direct result of his work-related injury of August 25, 2022, the patient sustained acute strain to his right shoulder and elbow. This has been treated adequately and sufficiently and has had sufficient time to heal. The MRI findings do not correlate with his symptoms or physical examination. At this time, there is no indication for any further diagnostic studies or treatment. I agree that the patient is at MMI. I agree with the 5% permanent impairment. He can return to full unrestricted activity with no limitations. He will not require any future medical care as a result of this. All of these opinions are to a reasonable degree of medical certainty.

RE: Gilliard, Javon - MR#: 000432105

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Providers: This clinical information can be easily retrieved from MUSC's electronic medical record via MUSC CareLink. To register, go to carelink@musc.edu.

Patients: An electronic summary of this visit as well as other health information is available via MUSC MyChart. To register, go to www.mychart.musc.edu.



Richard J. Friedman, MD, FRCS  
Department of Orthopaedic Surgery  
Medical University of South Carolina

RE: Gilliard, Javon - MR#: 000432105

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BEFORE THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 2216774

Javon Gilliard,  
Employee,  
Claimant,  
vs.  
Dorchester School District Two,  
Employer,  
and  
SC School Boards Insurance Trust,  
Carrier,  
Defendants.

CONSENT ORDER.

This claim was scheduled for a hearing on February 27, 2024, at 10:00 A.M., in St. George, South Carolina. Prior to the scheduled hearing, the parties to this claim reached an agreement to resolve the outstanding issues in controversy and have requested the Commission to issue this Order memorializing the agreement. The parties have agreed as follows:

1. That Defendants agree to send Claimant for a second orthopedic opinion with Dr. George Pappas at SC Sports Medicine for his right shoulder.
2. That all issues are held in abeyance.
3. That this claim will be returned to General Files, without prejudice to either party, and will not be reset for a hearing until requested by either party upon proper pleadings.

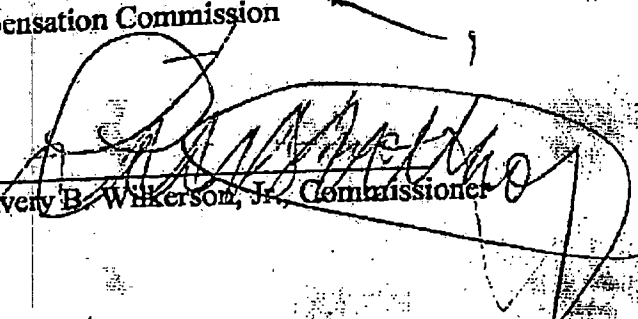
I find the agreement among the parties set forth above to be reasonable.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the above agreement among the

parties be approved and adopted as an Order of the South Carolina Workers' Compensation Commission. This file shall be returned to General Files until a hearing request is made by either party through proper pleadings. All other issues will be held in abeyance and are reserved for agreement by the parties or determination by the Commission at a later time.

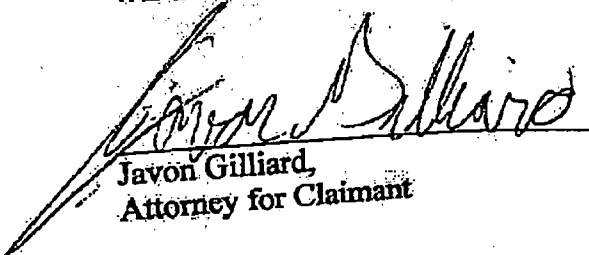
**AND IT IS SO ORDERED.**

South Carolina Workers'  
Compensation Commission

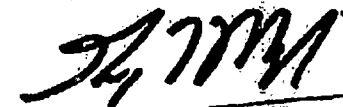
By:   
Avery B. Wilkerson, Jr., Commissioner

Dated: 3-18-2024  
Columbia, South Carolina

WE DO HEREBY CONSENT:

  
Javon Gilliard,  
Attorney for Claimant

WILLSON JONES CARTER & BAXLEY, P.A.

  
George T. Miars, Jr., Esquire  
Attorneys for Defendants

**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 Melani Roark on March 21, 2024**

State of South Carolina  
**Workers' Compensation Commission**

**APPELLATE PANEL DECISION AND ORDER**

**COMMISSION PANEL:** The Honorable John Gabriel Coggiola, The Honorable Aisha Taylor,  
The Honorable R. Michael Campbell, II

SCWCC File No.: 2216774

Javon Gilliard,

Claimant,

v.

Dorchester School District Two,

Employer,

and

SC School Boards Insurance Trust,

Carrier,

Defendants.

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**AFFIRMED**

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Hearing held virtually on August 25, 2025

Per notice timely and properly served upon all Parties of Interest.

Appearances: Claimant/Appellant appeared *pro se*.

George T. Miars, Jr., of Willson Jones Carter & Baxley,  
P.A., appeared on behalf of Defendants/Respondents.

Court Reporter: Amber Scarborough, Creel Court Reporting, Inc.  
1230 Richland Street, Columbia, SC 29201  
(803) 252-3445, [contact@creelreporting.com](mailto:contact@creelreporting.com)

Filed:

October 6, 2025

## I. STATEMENT OF THE CASE

This is an admitted claim for an injury to the right shoulder. On March 5, 2025, a hearing was held before the single commissioner to determine (1) whether Defendants may stop the payment of ongoing temporary total disability benefits, (2) whether Defendants are entitled to a credit for the overpayment of temporary benefits, (3) whether Claimant is at maximum medical improvement, (4) whether Claimant is entitled to permanent partial disability benefits, and (5) whether Claimant is entitled to future medical treatment under the Workers' Compensation Act.

Claimant's position was that he sustained an injury to his right arm and right shoulder while breaking up a physical altercation between students on August 25, 2022. Claimant relied on Dr. Cash's assignment of a 5% impairment rating to the right shoulder/arm on May 3, 2023 for his assertion that he has sustained permanent impairment to both his right shoulder and right arm. (Def. APA #5, pp. 26-73). At the hearing, Claimant asserted that Dr. Friedman evaluated and assigned a 5% impairment rating for the left upper extremity, whereas Claimant's injury was to the right upper extremity. (Cl. APA#1, pp. 1-6). However, Dr. Friedman later clarified in questionnaire that he did examine the right upper extremity for this claim. (Def. APA#7, pp. 117-121). Claimant continued to maintain that Dr. Friedman evaluated the left arm. The Claimant also disagrees with the assertion that he is at maximum medical improvement (MMI) as he believes he needs additional medical treatment.

Defendants contended that Claimant was at MMI with respect to the right shoulder and denied a separate injury to the right arm. They agreed that Claimant was entitled to an award of permanent partial disability to the right shoulder. Additionally, Defendants agreed that they are responsible for ongoing, causally-related, and authorized medical treatment for the right shoulder as set forth in the Form 14B completed by Dr. Pappas on May 6, 2024 and the medical

questionnaire completed by Dr. Cash dated July 19, 2023. While Defendants agreed that Claimant is entitled to permanent partial disability for the admitted right shoulder injury, they disputed that Claimant sustained a disability to his right arm from this accident. Defendants requested a determination of MMI and a determination of Claimant's permanent partial disability to the right shoulder under S.C. Code Ann. § 42-9-30.

Defendants also contended that they were entitled to stop payment of temporary total disability benefits as Claimant has reached MMI. Defendants further requested credit for overpayment of temporary total disability payments after the date of MMI.

Claimant did not take issue with the medical evidence or Defendants' requests for determinations of permanent partial disability and entitlement to future medical care. Claimant alleged that he had continued issues and limitations with his right shoulder and right arm as a result of the accident at work on August 25, 2022, in excess of the opinions of his treating providers.

On May 15, 2025, the single commissioner issued a decision and order in which she found that (1) Claimant had reached MMI, (2) Claimant sustained 28% permanent partial disability to the right shoulder as a result of the work-accident, (3) Defendants may stop making temporary total disability payments, (4) Defendants are entitled to credit for overpayment of temporary total disability benefits since the date of MMI, (5) Claimant is entitled to future medical treatment, and (6) Claimant has not sustained any serious and permanent disfigurement as a result of his accident.

On May 30, 2025, Claimant appealed the single commissioner's order, asserting that he had not reached MMI and he had sustained serious permanent disfigurement as a result of the accident. Claimant also filed a motion on appeal to have Dr. Cash's notes about Claimant's work restrictions admitted into the record.

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A hearing was held before the appellate panel on August 25, 2025. Prior to the hearing, the undersigned Commissioner advised Claimant of his right to counsel. Claimant clearly stated he understood his right to retain an attorney and that he wished to proceed *pro se*.

We grant Claimant's motion to have new evidence admitted into the record, and we affirm the single commissioner's order.

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

The findings of fact and conclusions of law in the appealed order of the single commissioner are as follows:

### Single Commissioner Findings of Fact

1. That Claimant has an admitted injury to his right shoulder that occurred on August 25, 2022, while attempting to breakup an altercation.
2. That Claimant was treated conservatively by orthopedist Dr. Cash. Dr. Cash opined that the Claimant was at maximum medical improvement (MMI) on April 24, 2023. (Def. APA#5, pp 54). Dr. Cash assigned a 5% impairment rating to the right shoulder/arm.
3. That Claimant saw orthopedist Dr. Friedman for a second opinion on November 14, 2023. (Def. APA#7, pp 117). Dr. Friedman opined that the Claimant was at MMI and assigned a 5% impairment rating.
4. That Claimant saw a third orthopedist, Dr. Pappas, for an evaluation on May 6, 2024. Dr. Pappas opined that the Claimant was not at MMI. After providing additional conservative treatment for the Claimant, Dr. Pappas found that the Claimant was at MMI on December 6, 2024 and assigned a 17% impairment rating to the right shoulder. (Def. APA#11, pp 208).

5. That an MRI of the Claimant's right elbow was normal. This finding is based on the opinion of Dr. George Pappas.
6. That all three orthopedists who have treated the Claimant agree that the Claimant is at maximum medical improvement. There are not any medical opinions in the record that contradict their opinions. The Commission cannot issue an opinion that is the equivalent of a medical opinion. *Burnette v. City of Greenville*, 737 S.E.2d 200 (S.C. Ct. App. 2012).
7. That Claimant reached maximum medical improvement on December 6, 2024. This finding is based on Dr. Pappas's finding of maximum medical improvement as of that date. Dr. Pappas was the third and final orthopedist to provide this opinion that Claimant has reached maximum medical improvement.
8. That as a result of this accident Claimant has sustained a twenty-eight (28%) percent permanent partial disability to his right shoulder. This finding is based on Dr. Pappas's assignment of a 17% medical impairment to the right shoulder, Claimant's need for additional medical treatment, including potential future surgery, along with Claimant's testimony as to his loss of strength and pain in his right shoulder. I do not find a separate disability to the right arm, based on Dr. Pappas' opinion that the Claimant's 17% impairment to the shoulder takes into account the Claimant's right biceps tendon tear, as well as the Claimant's normal right elbow MRI. Dr. Pappas had the opportunity in the questionnaire to assign a separate impairment rating to the right arm, but did not do so, assigning impairment solely to the right shoulder.
9. That from the Claimant's permanent partial disability award, Defendants are entitled to a credit for the number of weeks of temporary disability benefits paid after the date of maximum medical improvement, December 6, 2024. Maximum medical improvement

signals the end of temporary total benefits. *Curiel v. Environmental Management Services*, 655 S.E.2d 482(S.C. 2007); *Sanders v. MeadWestvaco Corp.*, 638 S.E.2d 66 (S.C. Ct. app. 2006); S.C. Code § 42-9-210.

10. The Claimant is to be awarded future causally related medical treatment as opined by Dr. Cash and Dr. Pappas. (Def. APA#5, pp. 58 and Def. APA#11, pp. 208). Both opinions are stated to the requisite “degree of reasonable medical certainty” that the statute requires for awarding future medical treatment. S.C. Code § 42-15-60. The specific future treatment awarded to the right shoulder is: cryotherapy, TENS unit, nonsteroidal anti-inflammatory medications, oral anti-inflammatory medications; steroid injections, physical therapy, and a future right shoulder arthroscopy.

#### Single Commissioner Conclusions 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. Claimant sustained an admitted, compensable injury by accident to his right shoulder while working for Dorchester School District Two on August 25, 2022. See S.C. Code Ann. § 42-1-160 (2007, as amended).
3. Claimant has reached maximum medical improvement from his accident-related injury. Maximum medical improvement is a term used to indicate that a person has reached such a plateau that in the physician’s opinion no further medical care or treatment will tend to lessen the period of disability. *Dodge v. Bruccoli, Clark, Layman, Inc.*, 334 S.C. 574, 582 (S.C. Ct. App. 1999) (citing *O’Banner v. Westinghouse Elec. Corp.*, 319 S.C. 24,38 (Ct. App. 1995)). Dr. Cash, Dr. Friedman, and Dr. Pappas, Claimant’s treating physicians, all

opined that the Claimant had reached such a plateau with his recovery that no further medical care or treatment would tend to lessen the period of his disability.

4. As Claimant has reached maximum medical improvement, it is appropriate to determine whether Claimant has sustained permanent disability to his right shoulder. *Smith v. NCCI Inc.*, 369 S.C. 236, 255 (Ct. app. 2006) (citing *Hendricks v. Pickens County*, 335 S.C. 405, 414 n. 2 (Ct. App. 1999).
5. Under S.C. Code Ann. § 42-9-30(14), Claimant sustained a 28% permanent partial disability to the right shoulder as a result of this accident.
6. As enumerated in *Hendricks v. Pickens County*, 335 S.C. 405, 414 n. 2 (Ct. App. 1999), Defendants are entitled to a credit off of the Claimant's disability award for temporary total disability benefits paid after December 6, 2024, the date of maximum medical improvement.

### III. ISSUES ON APPEAL

1. Did the single commissioner err by finding that Claimant had reached MMI?
2. Did the single commissioner err by finding that Claimant had not sustained serious permanent disfigurement as a result of the accident?
3. Should the appellate panel admit Dr. Cash's notes about Claimant's work restrictions into the record?

### IV. DECISION OF THE APPELLATE PANEL

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#### Appellate Panel's Findings of Fact

1. That Claimant has an admitted injury to his right shoulder that occurred on August 25, 2022, while attempting to breakup an altercation.
2. That Claimant was treated conservatively by orthopedist Dr. Cash. Dr. Cash opined that the Claimant was at maximum medical improvement (MMI) on April 24, 2023. (Def. APA#5, pp 54). Dr. Cash assigned a 5% impairment rating to the right shoulder/arm.
3. That Claimant saw orthopedist Dr. Friedman for a second opinion on November 14, 2023. (Def. APA#7, pp 117). Dr. Friedman opined that the Claimant was at MMI and assigned a 5% impairment rating.
4. That Claimant saw a third orthopedist, Dr. Pappas, for an evaluation on May 6, 2024. Dr. Pappas opined that the Claimant was not at MMI. After providing additional conservative treatment for the Claimant, Dr. Pappas found that the Claimant was at MMI on December 6, 2024 and assigned a 17% impairment rating to the right shoulder. (Def. APA#11, pp 208).
5. That an MRI of the Claimant's right elbow was normal. This finding is based on the opinion of Dr. George Pappas.
6. That all three orthopedists who have treated the Claimant agree that the Claimant is at maximum medical improvement. There are not any medical opinions in the record that contradict their opinions. The Commission cannot issue an opinion that is the equivalent of a medical opinion. *Burnette v. City of Greenville*, 737 S.E.2d 200 (S.C. Ct. App. 2012).
7. That Claimant reached maximum medical improvement on December 6, 2024. This finding is based on Dr. Pappas's finding of maximum medical improvement as of that date. Dr. Pappas was the third and final orthopedist to provide this opinion that Claimant has reached maximum medical improvement.

8. That as a result of this accident Claimant has sustained a twenty-eight (28%) percent permanent partial disability to his right shoulder. This finding is based on Dr. Pappas's assignment of a 17% medical impairment to the right shoulder, Claimant's need for additional medical treatment, including potential future surgery, along with Claimant's testimony as to his loss of strength and pain in his right shoulder. We do not find a separate disability to the right arm, based on Dr. Pappas' opinion that the Claimant's 17% impairment to the shoulder takes into account the Claimant's right biceps tendon tear, as well as the Claimant's normal right elbow MRI. Dr. Pappas had the opportunity in the questionnaire to assign a separate impairment rating to the right arm, but did not do so, assigning impairment solely to the right shoulder.
9. That from the Claimant's permanent partial disability award, Defendants are entitled to a credit for the number of weeks of temporary disability benefits paid after the date of maximum medical improvement, December 6, 2024. Maximum medical improvement signals the end of temporary total benefits. *Curiel v. Environmental Management Services*, 655 S.E.2d 482(S.C. 2007); *Sanders v. MeadWestvaco Corp.*, 638 S.E.2d 66 (S.C. Ct. app. 2006); S.C. Code § 42-9-210.
10. The Claimant is to be awarded future causally related medical treatment as opined by Dr. Cash and Dr. Pappas. (Def. APA#5, pp. 58 and Def. APA#11, pp. 208). Both opinions are stated to the requisite "degree of reasonable medical certainty" that the statute requires for awarding future medical treatment. S.C. Code § 42-15-60. The specific future treatment awarded to the right shoulder is: cryotherapy, TENS unit, nonsteroidal anti-inflammatory medications, oral anti-inflammatory medications; steroid injections, physical therapy, and a future right shoulder arthroscopy.

Appellate Panel's Conclusions of Law

Based on the foregoing findings of fact, the undersigned commissioners make the following conclusions 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. Claimant sustained an admitted, compensable injury by accident to his right shoulder while working for Dorchester School District Two on August 25, 2022. See S.C. Code Ann. § 42-1-160 (2007, as amended).
3. Claimant has reached maximum medical improvement from his accident-related injury. Maximum medical improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion no further medical care or treatment will tend to lessen the period of disability. *Dodge v. Brucoli; Clark, Layman, Inc.*, 334 S.C. 574, 582 (S.C. Ct. App. 1999) (citing *O'Banner v. Westinghouse Elec. Corp.*, 319 S.C. 24, 38 (Ct. App. 1995)). Dr. Cash, Dr. Friedman, and Dr. Pappas, Claimant's treating physicians, all opined that the Claimant had reached such a plateau with his recovery that no further medical care or treatment would tend to lessen the period of his disability.
4. As Claimant has reached maximum medical improvement, it is appropriate to determine whether Claimant has sustained permanent disability to his right shoulder. *Smith v. NCCI Inc.*, 369 S.C. 236, 255 (Ct. app. 2006) (citing *Hendricks v. Pickens County*, 335 S.C. 405, 414 n. 2 (Ct. App. 1999)).

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5. Under S.C. Code Ann. § 42-9-30(14), Claimant sustained a 28% permanent partial disability to the right shoulder as a result of this accident.

6. As enumerated in *Hendricks v. Pickens County*, 335 S.C. 405, 414 n. 2 (Ct. App. 1999), Defendants are entitled to a credit off of the Claimant's disability award for temporary total disability benefits paid after December 6, 2024, the date of maximum medical improvement.

### ORDER

Based on the preceding findings of fact and conclusions of law,

**IT IS HEREBY ORDERED** that Dr. Cash's notes about Claimant's work restrictions are admitted into the record.

**IT IS FURTHER ORDERED** that the Claimant has reached maximum medical improvement on December 6, 2024 following Claimant's August 25, 2022 work accident.

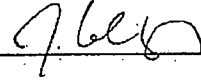
**IT IS FURTHER ORDERED** the Claimant sustained a 28% permanent partial disability to the right shoulder as a result of this accident. From this amount, the Defendants are entitled to a credit or offset for number of weeks of temporary disability compensation paid from December 6, 2024 through the date of this Order.

**IT IS FURTHER ORDERED** that the Claimant is entitled to receive, and the Defendants are entitled to provide future medical treatment in the form of non-steroid anti-inflammatory medication, steroid injections, physical therapy, cryotherapy, TENS unit, and right shoulder arthroplasty.

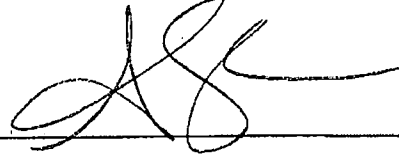
**IT IS FURTHER ORDERED** that Claimant has not sustained any serious and permanent disfigurement as a result of this accident.

No hearing costs are awarded in this matter.

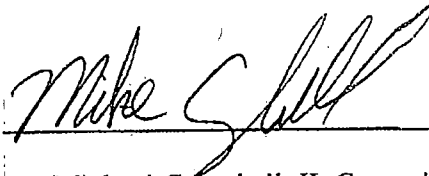
AND SO IT IS ORDERED.



John Gabriel Coggiola, Commissioner



Aisha Taylor, Commissioner



R. Michael Campbell, II, Commissioner

Date

Columbia, SC