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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE STATE OF SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

APPELLATE CASE NUMBER: 2025-002058

Sonya Parks, Claimant and Appellant,

v.

Cintas Corporation, Employer and Respondent,

and

Farmington Casualty Company and
LM Insurance Corporation, Carrier and Respondents.

REPLY BRIEF OF THE APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

ARGUMENT

I. Respondents' Abandonment Argument Fails Because Claimant Challenged a Legal Defect in the Full Commission's Order and Supported That Challenge with Controlling Authority.

"[T]he Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the hearing commissioner." *McGuffin v. Schlumberger-Sangamo*, 307 S.C. 184, 186, 414 S.E.2d 162, 163 (1992)(citing *Green v. Raybestos-Manhattan, Inc.*, 250 S.C. 58, 156 S.E.2d 318 (1967); S.C. Code Ann. § 42-17-50 (1985)). In doing so, the Full Commission must ensure these findings are grounded in a full consideration of the evidence. *Hendricks v. Pickens Cty.*, 335 S.C. 405, 419-20, 517 S.E.2d 698, 706 (Ct. App. 1999). While the Full Commission may consider the hearing commissioner's opinion—given the latter's firsthand experience with the witnesses—it retains the statutory power to reach independent conclusions. *Green*, 250 S.C. at 64. "The final determination of witness credibility and the weight to be accorded evidence is left to the Full Commission." *McGuffin*, 307 S.C. at 186. (citing *Ross v. American Red Cross*, 298 S.C. 490, 381 S.E.2d 728 (1989)).

These cases collectively highlight that, while the Full Commission may rely on the hearing commissioner's observations, its role as the ultimate factfinder allows it to independently evaluate evidence and make determinations. Although the Full Commission is the ultimate finder of fact, that standard presupposes findings sufficiently articulated to permit judicial review. "The appellate panel's factual findings will normally be upheld; however, such a finding may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it." *Houston v. Deloach & Deloach*, 378 S.C. 543, 551, 663 S.E.2d 85, 89 (Ct. App. 2008) (citing *Tiller v. Nat'l Health Care Ctr. of Sumter*, 334 S.C. 333, 339, 513 S.E.2d 843, 845 (1999)).

Respondents misinterpret Claimant's position as a per se challenge to "near-verbatim adoption" of the Single Commissioner's order. However, Claimant's point is narrower and legally dispositive. Under the South Carolina Administrative Procedures Act, this Court may reverse or remand where an agency decision is affected by an error of law or is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Claimant cited that governing framework in her opening brief and argued the Full Commission failed to discharge its independent fact-finding role because its conclusory affirmance did not meaningfully address the disputed issues raised on the administrative appeal.

Respondents' insistence that Claimant cited "no law" is therefore incorrect. Claimant does not seek reversal merely because the Full Commission's order resembles the Single Commissioner's; she seeks reversal or remand because the order does not reveal whether the Commission independently weighed the evidence on aggravation, repetitive trauma, medical causation, MMI, disability, vocational proof, and credit. When an order obscures rather than reveals the basis for decision, it frustrates appellate review and constitutes legal error under the APA.

This Court should reject Respondents' abandonment argument and remand for meaningful findings, or reverse where the record permits only one lawful result.

II. Respondents Cannot Create "Substantial Evidence" By Isolating Fragments of Dr. Pill's Deposition While Ignoring His Records and Causation Opinions Viewed On the Whole Record.

"'Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action.'" *Peake v. S.C. DMV*, 375 S.C. 589, 592-93, 654 S.E.2d 284, 287 (Ct. App. 2007) (quoting *South Carolina Dep't of Motor Vehicles v. Nelson*, 364 S.C. 514, 519, 613 S.E.2d 544, 547 (Ct.

App. 2005)). "'An appellate court may reverse or modify the decision of the appellate panel if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are affected by other error of law.'" *Ashford v. Prysmian Power Cables & Sys., USA*, 427 S.C. 361, 365, 830 S.E.2d 912, 915 (Ct. App. 2019)(quoting *Houston*, 378 S.C. at 552).

Additionally, "'If a medical expert is unwilling to state with certainty a connection between an accident and an injury, the 'expression of a cautious opinion' may support an award if there are facts outside the medical testimony that also support an award.'" *Hieronymus v. Hamrick*, 385 S.C. 1, 7, 682 S.E.2d 512, 515 (Ct. App. 2009)(quoting *Tiller*, 334 S.C. at 340). "'Proof that a claimant sustained an injury may be established by circumstantial and direct evidence where circumstances lead an unprejudiced mind to reasonably infer the injury was caused by the accident.'" *Id.* at 8 (quoting *Tiller*, 334 S.C. at 341).

Here, Respondents repeatedly argue that Dr. Pill was the only medical expert and that his deposition defeats causation. But substantial evidence is not whatever can be extracted from one favorable line of testimony; it is evidence which, considering the record as a whole, would allow reasonable minds to reach the agency's conclusion. Agency findings remain subject to reversal when they omit a reasonable evidentiary basis grounded in the whole record. And where substantial rights are prejudiced by legal error, reversal or remand is warranted.

The whole-record standard defeats Respondents' selective reading of Dr. Pill's testimony. Claimant cited Dr. Pill's July 4, 2022, questionnaire, his February 29, 2024 progress note, his March 27, 2024 deposition, and the March 17, 2023 MRI as part of a consistent body of medical proof linking the September 2, 2021, lifting event and subsequent work demands to worsening of the left shoulder and bilateral pathology. On March 27, 2024, Dr. Pill testified as follows:

> Q: And so, Doctor, is it your opinion then to a reasonable degree of medical certainty that that September 2nd 2021, accident also aggravated, impaired, affected, and caused injuries and worsening acceleration to her left shoulder?
>
> THE WITNESS: I would say, yes. I've -- she demonstrated the mechanism by which she was lifting the totes was with two arms, and I think probably she put most of it with her right and she injured that, and then she just probably aggravated the left.
> Q: Okay. And that's to -- and that's your opinion to a reasonable degree of medical certainty?
> A: Yes.

(Dr. Pill Dep. 12:3-17).

> Q And so, is it still your opinion, Doctor, to a reasonable degree of medical certainty that the left shoulder was aggravated, affected, impaired, worsened, and accelerated by the admitted September 2nd, 2021, right shoulder injury with that lifting of the -- . . .- heavy tote?
> ***
> THE WITNESS: I would definitely say aggravated.

(Dr. Pill Dep. 19:16-24).

> Q. And Doctor, it looks like you stated there based on your office notes -- particularly on number two, based on your office note, patient history, personal patient evaluation, Melissa Parks complained of worsening left shoulder and left arm pain and injuries causally directly caused and aggravated by her overuse and overcompensation of her left arm due to her acute right arm injuries. So is that still your opinion, Doctor?
> A: Yes.
> Q: Okay. And that's still your opinion to a reasonable degree of medical certainty?
> A: Yes.

(Dr. Pill Dep. 28:6-18).

Respondents isolate phrases they view as favorable while disregarding the treating physician's above repeated causation statements and clinical assessments. At minimum, if the Commission interpreted Dr. Pill's testimony as negating causation notwithstanding his written records and later explanations, it was required to say so and explain it. Because the Full Commission offered no such analysis, Respondents' appellate effort to characterize isolated excerpts as "substantial evidence" cannot sustain the order.

Further, Respondents misstate the dormant-condition inquiry. Respondents argue that Claimant failed to prove aggravation because her left shoulder was not "dormant" and because Dr. Pill did not use that exact word in his deposition. Respondent ignores the substance of the depositions and the record evidence. In this context, the relevant question is whether the preexisting condition was non-disabling before the injury, not whether Claimant was symptom-free.

Claimant's evidence was directed to the correct inquiry, whether the left shoulder was non-disabling before September 2, 2021, and became disabling after the work injury and repetitive duties. She cited record evidence that she worked full duty, without restrictions, before the injury, despite any preexisting condition. That evidence is legally material because aggravation law does not require a claimant to prove a pristine, symptom-free baseline. It requires proof that the condition was not disabling before the accident and became disabling afterward. Respondents' reliance on prior treatment history or contemplated surgery does not answer that question.

The Commission committed legal error or reached a result clearly erroneous on the whole record. While the Commission's factual findings ordinarily govern, those findings must still rest on substantial evidence under the proper legal standard. If the Commission treated "not dormant" as meaning "not symptom-free," then it applied the wrong legal standard. Because Respondents defend the award on precisely that mistaken premise, the Court should reverse or remand for application of the correct aggravation standard.

Additionally, Respondents' attempt to dismiss the June 15, 2022 "pop" incident as irrelevant only highlights the Commission's failure to define the scope of the claim and address a material causation fact. Because Claimant alleged aggravation and cumulative trauma through October 9, 2022, the Commission was required to state whether it treated the June 15, 2022,

incident as part of the claimed injury or excluded it as a separate event. Claimant presented evidence that the incident was reported, followed by treatment, and resulted in restrictions, making it plainly relevant to aggravation, repetitive trauma, or both. Without a clear finding on that point, the Court is left to speculate as to how the Commission treated a material event in the progression of Claimant's condition. Remand is therefore required based on this aspect also.

III. Claimant Offered Evidence of Repetitiveness and Medical Proof of Causation, Which Is Exactly What the Statute (§42-1-172) Requires to Establish Repetitive Trauma Injury.

A repetitive-trauma claim requires proof of a direct causal relationship, established by medical evidence, between the injury and repetitive acts occurring in the course of regular duties. But the claimant must first prove the work itself was repetitive. "[N]othing in §42-1-172 prohibits claimants from establishing the repetitious nature of their jobs via their own lay testimony." *Brooks v. Benore Logistics Sys.*, 442 S.C. 462, 480, 900 S.E.2d 436, 445-46 (2024). Thus, the South Carolina Supreme Court has made clear that repetitiveness is a factual predicate, and claimants only need to show that their jobs involve repetitive acts through lay testimony or otherwise. Further, the statute requires medical evidence for causation, not for every predicate fact surrounding the work activities themselves. Respondents erroneously argue lay testimony about Claimant's job duties is "irrelevant" because medical evidence alone matters under South Carolina Code Annotated §42-1-172. As stated above, that alone is not the applicable law.

In the present case, Claimant satisfied both components. She cited testimony from Claimant and employer witnesses describing repetitive lifting, pulling, grabbing, overhead work, and handling heavy totes and garments over many years. That testimony directly establishes the repetitiveness element recognized in *Brooks, supra*. The Claimant also cited Dr. Pill's medical opinions attributing her shoulder injuries and worsening condition to the September 2, 2021, lifting event and repetitive work demands to a reasonable degree of medical certainty. Respondents'

argument merges these two distinct elements into one and improperly seeks to erase competent proof of the job's repetitive nature.

Further, Respondents argue that Dr. Pill testified there was "no objective evidence" of worsening between the April 2021 and March 2023 MRIs. But the objective imaging is part of the record, and the Commission was required to evaluate it as part of the whole record rather than through a selective paraphrase of the deposition testimony. Substantial evidence must provide a reasonable evidentiary basis for the Commission's order and cannot rest on speculation. *Houston*, 378 S.C. 543. A decision is reversible when clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. *Hieronymus*, 385 S.C. at 5. Further, Respondents' claim of "no objective worsening" cannot be matched with the MRI findings themselves.

Here, Claimant cited the March 17, 2023, left-shoulder MRI showing complete tears of the supraspinatus and infraspinatus tendons, significant tendon retraction, severe muscular atrophy, arthropathy, and labral pathology. Those are objective anatomical findings. They are not subjective complaints, and they are probative of worsening and functional decline. Even if one deposition passage could be read to minimize change, the Commission could not simply ignore the MRI's objective findings or permit Respondents to do so on appeal. At a minimum, the Commission had to explain how those findings fit into its causation and aggravation analysis. Because neither the Single Commissioner nor the Full Commission meaningfully reconciled the MRI evidence with the denial of left-shoulder compensability, the order cannot stand and should be reversed.

Moreover, if the Commission rejected Claimant's medical causation evidence, it was required to explain the reason. Because the Order contains no meaningful analysis of either element, remand is required.

IV. Respondents Improperly Combine MMI, Disability, and Future Medical Care, Which Are Distinct Concepts, And the Commission's Own Award Confirms Ongoing Consequences from the Work Injury.

"MMI and disability are not always inextricably intertwined." *McMahan v. S.C. Dep't of Educ.-Trans.*, 417 S.C. 481, 488-89, 790 S.E.2d 393, 397 (Ct. App. 2016); see *Dodge v. Bruccoli, Clark, Layman, Inc.*, 334 S.C. 574, 581, 514 S.E.2d 593, 596 (Ct. App. 1999) ("Maximum medical improvement is a distinctly different concept from disability."). Maximum medical improvement is a factual determination, but it does not foreclose the need for future treatment and does not automatically extinguish disability. See *McMahan, supra.* "[A]n individual can also be permanently disabled and still have yet to achieve MMI." *Id.* at 489.

In the present case, Respondents defend the finding that Claimant reached MMI on October 31, 2023, and then use that finding to justify both termination of disability and a credit for "overpayment." That reasoning combines separate legal concepts into one. Ongoing treatment can coexist with MMI, and the Commission's future-medical award does not support Respondents' 'no disability' proposition. Under the APA, the Court may reverse where the Commission commits an error of law or reaches a clearly erroneous result on the whole record. *Hieronymus*, 385 S.C. at 5.

Claimant's position is not that MMI can never coexist with future care. Rather, her point is that MMI does not automatically mean she was no longer disabled or that all subsequent temporary disability payments became improper. Claimant's point is reinforced by the Commission's own award of future medical treatment for hardware maintenance, repair, or replacement after the alleged MMI date. Respondents' position treats MMI as if it ends every consequence of the compensable injury, yet the award itself acknowledges continuing medical consequences. Claimant also cited evidence of ongoing treatment needs and a revised Form 14B reflecting retained hardware and ongoing issues. Thus, even if MMI was properly found, the Commission still had to decide whether Claimant remained disabled and whether any post-MMI

payments were actually "not due and payable." Because the order does not perform that analysis, Respondents cannot cure that deficiency through appellate argument.

V. Respondents' Criticism of the Vocational Report Cannot Substitute for Findings the Commission Itself Never Made.

In their Initial brief, Respondents argue that the vocational evaluator was a psychologist and relied in part on the left shoulder, which the Commission deemed non-compensable. In fact, the Commission had the obligation to address material evidence and explain its treatment of it in a manner sufficient for judicial review. Respondents cannot defend an agency order through post hoc rationalizations. Substantial evidence review requires consideration of the whole record, not selective disregard of unfavorable proof. *Peake*, 375 S.C. 589.

In this case, Claimant submitted a January 29, 2024, vocational evaluation concluding she could not perform full-time gainful employment, including sedentary work, and she argued that evidence was uncontroverted. Respondents now say the report was defective, but the Commission did not supply a reasoned explanation showing whether it rejected the report, discounted it, or simply ignored it. The Commission's mere mention is not meaningful consideration, particularly where Appellant contends it was unrefuted and consistent with the functional limitations in the record. If the denial of permanent total disability rests on rejection of vocational proof, the Commission had to state the reasons in a way this Court could review. If the Commission's denial of permanent total disability rests on rejecting the vocational evidence, the Commission must articulate a reasoned basis grounded in the record so this Court can evaluate whether that rejection is supported by substantial evidence. Because the Order lacks such findings, Respondents' appellate arguments cannot cure the omission.

Therefore, the Court should remand for findings on permanent total disability and vocational evidence, or reverse if the Court concludes the Commission's treatment of the vocational evidence is legally insufficient under the APA.

VI. The Credit Award Should be Reversed Because the Commission Never Made the Findings Necessary to Show the Post-Award Payments Were Not Due and Payable.

Respondents argue that the Commission should have started the credit on October 31, 2023, rather than January 5, 2024. Respondents' argument concedes that the award as entered lacks a valid legal anchor. Under South Carolina Code Annotated §42-9-210, a credit is allowed only for payments that were not due and payable when made, and any deduction is accomplished by shortening the compensation period. *Smith v. NCCI, Inc.*, 369 S.C. 236, 631 S.E.2d 268 (Ct. App. 2006). The dispositive issue, therefore, is not simply which date is applicable, it is whether the Commission made supported findings that Claimant's entitlement to disability benefits had ceased such that later payments were, in fact, not due and payable.

Here, the Commission never made findings necessary to show the payments were not due and payable. Claimant cited evidence of continuing disability, inability to return to work, ongoing treatment, and vocational proof of unemployability. If that evidence is credited, then no overpayment exists at all. Even on Respondents' own theory, the Commission failed to explain why January 5, 2024, was selected. This reveals the lack of reasoned analysis underlying the credit determination. Thus, Respondents are wrong to frame this as merely a dispute about start date. The threshold defect is the absence of findings establishing that disability ended and that the challenged payments were not due and payable under §42-9-210. The Court should reverse the credit award or, at a minimum, remand for legally sufficient findings.

VII. Court Should Reverse the Full Commission's Decision in Whole or In Part and Remand for Further Proceedings Consistent with the APA and the Commission's Obligation to Issue Findings That Aid Meaningful Review

Claimant's appeal presents both types of defects recognized under the APA. The Court may reverse or modify where the decision is affected by an error of law or is clearly erroneous on the whole record. *Hieronymus*, 385 S.C. 1. And because agency findings must rest on substantial evidence rather than conjecture, the Court cannot affirm an order that fails to explain the basis for rejecting material medical, vocational, and factual proof. *Houston*, 378 S.C. 543. Here, Appellant's principal procedural point is that the Full Commission failed to make independent, meaningful findings on disputed issues. That defect warrants remand.

At the same time, Respondents' own brief exposes specific legal errors that warrant reversal or, at a minimum, focused remand. Most notably, the credit award lacks findings establishing that any payments were not due and payable, and even Respondents concede the date selected by the Commission has no valid legal basis. Likewise, Respondents' defenses of the left-shoulder and repetitive-trauma rulings depend on selective reliance and incorrect legal premises about dormancy, lay proof of repetitiveness, and whole-record review. Accordingly, Claimant respectfully requests that this Court reverse the Full Commission's decision in whole or in part, and remand with instructions that the Commission issue independent, reviewable findings and conclusions consistent with the APA and the governing workers' compensation law.

CONCLUSION

For the foregoing reasons, the Claimant requests the Court to reverse the Decision and Order of the Full Commission.

Dated: Thursday, March 12, 2026
Greenville, South Carolina

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Sonya Parks,	Claimant and Appellant,
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Cintas Corporation,	Employer and Respondent,
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Farmington Casualty Company and LM Insurance Corporation,	Carriers and Respondents.

PROOF OF SERVICE

I certify that our law office served the **REPLY BRIEF OF THE APPELLANT** on Stephen Michael Foster, Esquire and Matthew Clark LaFave, Esquire of Lafave Bagley via email on March 12, 2026, at the following:

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March 12, 2026

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Re: *Sonya Parks v. Cintas Corporation (2)*
Appellate Case No. 2025-002058

Dear Ms. Kitchings:

Enclosed for filing is the following:

(1) REPLY BRIEF OF THE APPELLANT; and
(2) PROOF OF SERVICE.

If you have any questions, please do not hesitate to contact our law office.

With best wishes and warmest regards, I am

Truly yours,

Lola S. Richey

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Enclosures

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NOTE:

Sonya Parks v. Cintas Corporation (2) Appellate Case No. 2025-002058