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Mar 30 2026

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

**APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION**

WCC File No. 2412890

Court of Appeals Case No. 2026-000328

Bobby Ledwell, Employee,.....Appellant,

v.

Arauco North America, Inc., Employer,
and Sentry Casualty Company, Carrier Respondents.

RESPONDENTS' RETURN TO APPELLANT'S PETITION FOR REHEARING

Respondents request that Appellant's Petition for Rehearing be denied as the issues raised on appeal are neither final decisions nor will the delayed review fail to provide an adequate remedy to Appellant.

Respondents agree with Appellant that the Supreme Court has previously issued an opinion regarding temporary total disability benefits prior to the finality of a case. In *Pollack v. Southern Wine & Spirits of Am.*, the Supreme Court was tasked with determining whether an employee was entitled to temporary total disability benefits after he had been terminated from his light duty employment position for cause. 405 S.C. 9, 747 S.E.2d 430 (2013). Respondents in *Pollack* made the argument that the denial of benefits was not immediately appealable, and the Court indicated in only a footnote that they "disagreed and summarily reject this contention pursuant to Rule

220(b)(1), SCACR” *Id.* By citing Rule 220, SCACR, the Supreme Court did not go into detail as to why the denial of temporary total disability benefits was an immediately appealable issue. As such, there is no reasoning or basis for this issue being one in which a delayed review will not provide an adequate remedy. Respondents must gestate that this is applicable to each situation involving a denial of temporary total disability benefits, without having the supportive factors or determination that *Pollack* may have involved extenuating circumstances or different details which allowed the Court to hear this issue. While there is no clearly outlined basis for the Court’s decision, Respondents are forced to recognize that it has been previously decided on by the Court as contended by Appellant.

However, as we suspect supported the original decision of the Court of Appeals to dismiss this appeal, the issue of entitlement to temporary total disability benefits is not the only issue being raised on appeal by Appellant. Appellant has appealed the “Appellate Panel Decision and Order of the SC Workers’ Compensation Commission filed December 3, 2025” and the “Appellate Panel Motion Order denying Appellant’s Motion for Reconsideration.” (Appellants Notice of Appeal, P. 1). Further, Appellant raised eight line-item issues for appeal, beginning with “requests a review of all of the Findings of Fact, the Conclusions of Law, the Order and Award and of all rulings and decisions made by the Commissioner at the hearing, as contained in the Record or as made at any unrecorded pre-hearing conference, and in any communications concerning the claim, Order, Award and Decision rendered by the Hearing Commissioner in this matter.” (*Id.* P. 2). Upon review of the Appellate Panel Decision and Order dated December 3, 2025, the Conclusions of Law address whether there was an employee-employer relationship, whether Appellant sustained compensable injuries, whether Appellant is entitled to temporary total disability benefits, and whether recusal was necessary from the Hearing Commissioner. These are now all issues that

Appellant has requested to be reviewed as issues appeal, not only the matter of temporary total disability benefits. These issues are interlocutory as there has been no resolution of this case at the Commission level and there has been no final award of benefits, and as such the case has not reached finality.

It has been long established that the right to appeal a workers' compensation case is controlled by the Administrative Procedures Act. The APA provides that "only two types of orders are immediately appealable: final decisions and intermediate orders for which delayed review will not provide an adequate remedy." *Brown v. Southeastern Servs., H.H.I., LLC*, 446 S.C. 105, 917 S.E.2d 925 (Ct. App. 2025). The Court in *Brown* was tasked with determining whether the commission's order was immediately appealable. *Id.* The matters determined in this order were conceded to not be a final decision, but the order addressed whether Southeastern had the number of employees required to fall under the commission's jurisdiction and it established Claimant's entitlement to certain temporary benefits. *Id.* at 110. The Court acknowledges that "Claimant has not reached maximum medical improvement, and the commission has not ruled on whether Claimant is entitled to an award for any permanent disability. Other disputes may well arise as this case proceeds towards a final decision." *Id.* The Court in this case determined that the order was not immediately appealable as it did not meet the requirements of either being a final decision nor was it an intermediate order for which delayed review will not provide an adequate remedy. *Brown* establishes that orders that are not final decisions are not immediately appealable. This is no different from the appeal at hand. The Decision and Order being appealed by Appellant is not a final decision, nor will delayed review fail to provide an adequate remedy. The case has not reached resolution, and as indicated above, other disputes may arise prior to finality that may need to be addressed by the Court of Appeals. The Court in *Brown* notes that "the purpose of the final

judgment rule is to present the whole cause for determination in a single appeal and thus to prevent the unnecessary expense and delay of repeated appeals.” *Id.* at 112.

Appellant has outlined numerous issues to be raised on appeal but is attempting to disguise his list of issues that are not appealable behind the matter of temporary total disability benefits. To disregard the other issues raised by Appellant solely because one of the issues is appealable would be improper as the totality of the issues raised are not ripe for appeal.

In conclusion, the current Appeal should be denied, as the issues raised by Appellant are not ready to be heard by the Court. While the matter of temporary total disability disability benefits has previously been heard by the Supreme Court, the issues raised are neither final nor will the delayed review fail to provide an adequate remedy to Appellant. While the Court may determine that the matter of temporary benefits is one to be determined, Appellant has intertwined this issue with the other issues raised, and as such, Respondents respectfully request that Appellant’s Petition for Rehearing be denied.

Respectfully submitted,



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ATTORNEY FOR RESPONDENTS

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PROOF OF SERVICE

I certify that I, Toni Wingard, legal assistant for Robinson, Gray, Stepp & Laffitte, LLC have caused the Respondent's Return to Appellant's Petition for Rehearing to be served on the parties below addressed as follows:

VIA E-MAIL

The Honorable Jenny Abbott Kitchings
Clerk of the SC Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211
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March 30, 2026



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VIA E-MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Bobby Ledwell v. Arauco North America, Inc.
WCC No.: 2412890
DOI: 07/31/2024
Our File No.: 5431/8755

Dear Ms. Kitchings:

Enclosed as requested in the above-referenced matter, please find the **Respondents' Return to Appellants' Petition for Rehearing and Proof of Service**. Should you have any questions, please do not hesitate to contact my office.

With a copy of this letter, we are hereby serving a copy of these documents on counsel for the Appellant.

Very truly yours,

Nicolas L. Haigler, Esquire Enclosures

cc: Preston F. McDaniel, Esquire (via email)
Geral Malloy, Esquire (via email)
Angela Davis (via email)
Dietra Garland (via email)
Michelle Payne (via email)
Bernardita Sanchez Munoz (via email)
Anthony Farnam (via email)