STATE OF SOUTH CAROLINA COUNTY OF LEXINGTON	IN THE COURT OF COMMON PLEAS ELEVENTH JUDICIAL CIRCUIT
Ricky Kneece, Appellant/ Claimant, vs. Kneece Farms Employer, And Legion in Liquidation, South Carolina Property and Casualty Insurance Guaranty Association, Carrier, Respondents/ Defendants.	Civil Action No. 2024-CP-32-03485 **ORDER OF REVERSAL AND REMAND**

This matter came before this Court on Appellant's appeal from the South Carolina Workers' Compensation Commission Review Panel. A hearing on this matter was held on February 25, 2026, where the Appellant was represented by Preston McDaniel, Esquire, and Scott Elliott, Esquire, and the Respondents were represented by Mark Cauthen, Esquire. For the reasons set forth herein, this Court hereby **REVERSES and REMANDS** back to the Workers' Compensation Commission with instructions to award Appellant full disability benefits.

BACKGROUND

This case arises out of an injury that Mr. Ricky Kneece ("Appellant") suffered in 1999 while employed by and working on Kneece Farms. Kneece Farms is owned by Appellant's uncle Everett Kneece. However, the Claimant also worked for Delano R. Kneece & Son, Inc. ("family farm") his entire life. The Claimant has not worked for Kneece Farms since the accident. The

injury occurred when a tractor tire exploded in Appellant's face causing damage to his head/brain, face, mouth/teeth, nasal passage, sinus, left eye and left knee. This matter was officially commenced by the filing and service of a Form 50 dated November 7. 2001.

After a hearing held on January 11, 2005, the Hearing Commissioner issued her order finding that the Claimant had suffered compensable injuries to his brain/head, face, nasal passage, sinus, left eye, left knee, and teeth. The Hearing Commissioner also found that the Claimant sustained compensable injuries to his left shoulder, left elbow and for depression ("2005 Order"). The 2005 Order further found that as a result of his injury, the Claimant was diagnosed with conditions which include a closed head injury, chronic olecranon bursitis of his left elbow, intraarticular left biceps tendon rupture, patellofemoral syndrome of symptomatic plica, interior instability of the shoulder, diffuse cerebral edema with subarachnoid hemorrhage, neurocognitive deficits, left femur condyle fracture, and a fracture of the nasal bridge and left nasal bone. The 2005 Order held the Respondents responsible for the initial treatment for Appellant's brain and head injury and also found the Appellant was entitled to future treatment for depression along with follow-up treatment for the closed head injury.

The Respondents appealed the 2005 Order. However, Appellant was desirous of obtaining the medical treatment required by the 2005 Order. In exchange for the Respondents' commitment to provide for all of the medical treatment authorized by the 2005 Order, Appellant agreed to permit the Respondents to stop making temporary total disability payments. There followed a dispute between the parties as to whether Respondents fully performed their payment obligations under this agreement.

On or about July 9, 2010, Appellant filed a Form 50 requesting a hearing seeking an Order of the Commission finding him to be permanently and totally disabled with a physical brain injury

pursuant to S.C. Code Ann. § 42-9-10; Claimant sought all benefits to which he was entitled under the Act. After a full hearing on February 14, 2011 addressing all matters raised by the parties, the Hearing Commissioner issued several separate findings of fact ("FOF"). For purposes of this order, the most important FOF was that the Hearing Commissioner found the Claimant totally and permanently disabled with physical brain damage (FOF #7) and ordered Respondents to provide Appellant with the relief afforded him under the Workers' Compensation Act for life.

Furthermore, the Hearing Commissioner found that the job and work offered by Claimant's family farm, Delano R. Kneece & Son, Inc., was sheltered employment and benevolent in nature (FOF #15-17). The Hearing Commissioner also found that the Claimant's wife gave credible testimony that no such job ordinarily exists in the marketplace, that Claimant could not and would not be hired for farm work given his cognitive and physical limitations, and that the paycheck which Claimant draws from the farm is because of the generosity of his family and not because he performs any substantial, beneficial or work for the farm. (2011 Order at pages 27-28; FOF #15-17). Based upon all this evidence and more, the Hearing Commissioner concluded in the 2011 Order that the Claimant was entitled to treatment and benefits for life as provided by §42-9-10(C).

The Respondents appealed the Hearing Commissioner's Order to the Full Commission. By an order dated April 19, 2012, the Full Commission reversed the Hearing Commissioner's finding that the Claimant had suffered a physical brain injury. In particular, the Full Commission made one FOF as follows:

> The Commissioners find a Claimant who can drive a "complicated" computer-operated tractor for fifty (50) hours per week has not sustained a physical brain injury. The Claimant sustained an injury pursuant to Regulation 67-1101. (2012 Order at page 10).

All parties agree that it was based upon that sole Finding of Fact that the Full Commission reversed Hearing Commissioner's finding that the Appellant was totally disabled. Instead, because of the FOF regarding the driving of a "complicated" tractor, the Full Commission concluded that the Claimant sustained an injury pursuant to Regulation 67-1101. (2012 Order, p. 10). In fact, the Full Commission left intact all other findings of fact and conclusions of law of the Hearing Commissioner including the findings of fact that he was totally and permanently disabled.

The 2012 Order was subsequently appealed to the Circuit Court where, on July 18, 2013, the Circuit Court issued an order reversing the Full Commission. Furthermore, the Circuit Court reinstated the findings of fact of the Hearing Commissioner that the Appellant was permanently and totally disabled with a physical brain injury and, as a result, was entitled to lifetime benefits.

Respondents in turn appealed the 2013 Order to the Court of Appeals. On April 7, 2016, the Court of Appeals issued an order finding that the Full Commission's Order was not directly appealable to the Court of Common Pleas as the Full Commission had remanded the case to another Hearing Commissioner for a determination of benefits. The Court of Appeals found that because of the order of remand to determine benefits, the 2012 Order of the Full Commission was unappealable as it was not a final order. The Supreme Court denied Certiorari on August 9, 2017. On November 12, 2019, a Form 4 was issued by the Lexington County Clerk of Court of Common Pleas remanding this matter back to the Commission.

On June 13, 2023, a second Hearing Commissioner issued an order finding that the Appellant sustained 45% permanent disability to the brain resulting from the original injury in

1999.[1] Both parties appealed the Hearing Commissioner's finding to the Full Commission and, following a hearing, the Full Commission issued an order on June 7, 2024 which affirmed the 2023 Order finding that the Appellant was awarded 45% disability from the injury to his brain. Appellant filed a Motion for Reconsideration on July 16, 2024 which was denied. This appeal followed.

Because the determination of benefits has now been completed via the Hearing Commissioner's 2023 Order and the 2024 Full Commission Order affirming the determination, the 2024 Full Commission Order constitutes a final and appealable order. As such, this Court now addresses the issues raised by the Appellant by reviewing the full record, including the 2012 Full Commission Order as well as the Determination of Benefits of the 2024 Full Commission Order.

STANDARD OF REVIEW

The Administrative Procedures Act (the APA) "governs appellate review of a final decision from an administrative agency." *Hill v. Eagle Motor Lines*, 373 S.C. 422, 427, 645 S.E.2d 424, 428 (2007) *see* S.C. Code Ann. §1-23-31, et. Seq. Under the APA, this Court "may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact." S.C. Code Ann. §1-23-380 (A)(5); *Shealy v. Aiken Cnty.*, 341 S.C. 448, 455, 535 S.E.2d 442 (2000).

> It is not within the appellate court's province to reverse the appellate panel's factual findings if they are supported by substantial evidence. 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, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action. 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

[1] This 2023 Order was in response to the Court of Appeals' findings that the original Full Commission Order from 2012 was not a final order. This 2023 order was limited to a determination of benefits.

be founded on evidence of sufficient substance to afford a reasonable basis for it. *Houston v. Deloach & Deloach*, 378 S.C. 543, 663 S.E.2d 85 (Ct. App. 2008).

However,

> [t]he court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (a) in violation of constitutional or statutory provisions;
> (b) in excess of the statutory authority of the agency;
> (c) made upon unlawful procedure;
> (d) affected by other error of law;
> (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(A)(5)(a)-(f); *Crisp v. SouthCo., Inc. and Pennsylvania National Mutual Casualty Insurance Co.*, Op. No. 27229 (S.C. Sup. Ct. filed March 6, 2013).

DISCUSSION

Throughout this saga, there has always been one issue at the center of this controversy: the finding of fact in the 2012 Full Commission Order finding that the Appellant was not permanently disabled from his physical brain injury because he was operating a "complicated" tractor.

Specifically, the Full Commission found that, "a claimant who can drive a 'complicated' computer-operated tractor for fifty hours per week has not sustained a physical brain injury. The claimant sustained an injury pursuant to Regulation 67-1101." (2012 Order at 10). There simply is no evidence in the record that would support this finding. As such, the record supports a finding that Appellant suffered severe and permanent physical brain damage and is totally and permanently disabled with physical brain damage compensable pursuant to § 42-9-10 (C).

Our Supreme Court has held that § 42-9-10(C) awards lifetime weekly disability payments only in cases where the physical brain damage is severe and permanent. Section 42-9-10(C) provides as follows:

> Notwithstanding the five-hundred-week limitation prescribed in this section or elsewhere in this title, any person determined to be totally and permanently disabled who as a result of a compensable injury is a paraplegic, a quadriplegic, or who has suffered physical brain damage is not subject to the five-hundred-week limitation and shall receive the benefits for life.

Further elaborating upon § 42-9-10(C), the Supreme Court explained:

> Section 42-9-10(C) awards lifetime benefits for totally disabled claimants suffering "physical brain damage as an exception to the normal five-hundred-week limitation along with only two other conditions: paraplegia and quadriplegia. Thus, the context implies the General Assembly meant to require severe, permanent impairment of normal brain function in order for an injured worker to be deemed physically brain damaged under § 42-9-10(C).

Sparks v. Palmetto Hardwood, Inc., 406 S.C. 124, 129, 750 S.E. 2d 61, 63 (2013).

S.C. Code Ann. §42-9-400(d) defines "permanent physical impairment" as follows:

> As used in this section, 'permanent physical impairment' means any permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed. (S.C. Code Ann. § 42-9-400(d))

One does not have to be abjectly helpless or unable to complete basic human functions to be fully disabled; rather it is an inability to perform services other than those that are so limited in quality, dependability, or quantity that no reasonably stable job market exists for them that renders someone disabled. *McCollum v. Singer, Co.*, 300 S.C. 103, 386 S.E.2d 471 (Ct. App. 1989). In fact, just because a claimant is employed does not necessarily show that a claimant possesses earning capacity in a stable job market. *Stephenson v. Rice Services, Inc.*, 323 S.C. 113, 473 S.E.

2d 699 (1996). The key principle is that total disability under workers' compensation law is measured by loss of earning capacity in the reasonably stable labor market, not by whether someone is performing any work at all. *See Eaddy v. Smurfit-Stone Container Corp.*, 355 S.C. 154, 584 S.E.2d 390 (2003); *Dent v. East Richland County Public Service District,* 423 S.C. 193, 813 S.E.2d 886 (2018).

The evidence in the record overwhelmingly supports the notion that Appellant has lost his earning capacity in a reasonably stable labor market. At the February 2026 hearing before this Court, Appellant cited to numerous doctors' reports in the record which all confirmed that Appellant had suffered a physical brain injury.[2] As a result of the brain injury, the reports stated that Appellant has trouble sleeping, his IQ dropped to 76, his physical strength has been reduced, his memory worsened to the point it affected his ability to remember the treatment prescribed to him by his doctors, and his temperament has become more erratic. All this resulted in Appellant being unable to work anywhere else other than his family farm.

The family farm – Delano R. Kneece & Son, Inc. – operates a farm on approximately 2,000 acres in Lexington County. The family farm is a corporation owned by the Appellant, his father (Delano R. Kneece) and other family members. Appellant's wife, Roxanne Kneece, is the corporate treasurer and bookkeeper and also works on the family farm. Prior to his accident, Appellant was a general decision-maker for the family farm and was able to perform all of the functions, duties and responsibilities of a farmer on the family farm. Appellant still lives on the family farm where his home is walking distance from the farm, fields and shops.

---

[2] Respondents did not submit any kind of evidence that would suggest Appellant's brain injury was not physical in nature.

Appellant's duties on the family farm since the accident have been drastically reduced to small, menial, low-risk tasks. Evidence was presented to this Court showing that, in order for Appellant to be able to participate on his farm, the family farm has purchased a fully-automated tractor complete with a GIS device (a form of GPS), programmed planting devices and alarm systems.[3] And even with all the technology to assist Appellant in the operation of the tractor, a farm hand must lead Appellant to the field he is to work and program the GIS equipment and computer for him. Once Appellant is led to the field on the pre-programmed tractor, his "operation" consists of pressing a button and the tractor plows the fields using the GIS coordinates. Even then, farm hands must often go back to the field and re-plow where the Appellant has misused the computerized equipment. In the event the tractor loses the GIS satellite signal, Appellant is unable to re-program the GIS computer by himself and a farm hand must go out to the field and re-program the computer for him.[4]

All the reliable, probative, and substantial evidence presented to this Court goes directly against the Full Commission's finding of fact that the Appellant was not fully and permanently disabled from a physical brain injury. Without the efforts of the family farm to accommodate Appellant's disabilities, Appellant would not be working as a farmer at all. Appellant certainly could not command work in an open and reasonably stable job market. The only conclusion that could arise from the evidence presented is that Appellant is the beneficiary of the family farm's benevolent employment. As such, this Court finds that the Full Commission's 2012 Order finding that the Appellant was not permanently disabled from his physical brain injury because he was

---

[3] This is the "complicated" tractor at issue in the 2012 Full Commission Order.

[4] Other evidence was presented to this Court about how the family farm has gone out of its way to purchase farm equipment suitable for Appellant – such as a corn dryer with an automatic shut off – and hiring extra farm hands to allow Appellant to continue to "work" on the farm.

operating a "complicated" tractor is not supported by the evidence. Therefore, pursuant to S.C. Code Ann. § 1-23-380(A)(5)(e), this Court **REVERSES** the Full Commission's finding of fact and **FINDS** that the Appellant is fully and permanently disabled from the physical brain injury he suffered in 1999 and is entitled to lifetime benefits pursuant to § 42-9-10(C).[5] This matter is hereby **REMANDED** to the Workers' Compensation Commission to determine an award of benefits under § 42-9-10(C).

CONCLUSION

Accordingly, this Court hereby **REVERSES** the 2012 Full Commission Order finding that the Appellant did not suffer permanent and total disability from a physical brain injury and **REMANDS** this matter for a determination of benefits under § 42-9-10(C).

IT IS SO ORDERED.

[JUDICIAL E-SIGNATURE PAGE TO FOLLOW]

[5] It is also this Court's intention that Appellant be paid any of the benefits from the 2005 and 2011 Commission Orders that have since gone unpaid as this case has wound its way through the appeals process.

Lexington Common Pleas

Case Caption: Ricky Kneece VS Kneece Farms , defendant, et al

Case Number: 2024CP3203485

Type: Order/Other

It Is So Ordered

s/ Walton J. McLeod