

APPELLATE PANEL DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1208767

Shane Almquist

EMPLOYEE,
CLAIMANT/RESPONDENT

VS.

Meditam

EMPLOYER,

AND

Guarantee Insurance Company c/o Patriot National
Insurance Group

CARRIER,
DEFENDANTS/APPELLANTS,

Appellate Panel Review held in Columbia, South
Carolina, on October 15, 2013 per notices timely
And properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

12/12/13

APPEARANCES: Claimant/Appellant represented by Daniel L. Draisen, Esquire

Defendants/Respondents represented by Kathleen G. Lyall, Esquire, of
McAngus, Goudelock and Courie LLC.

STATEMENT OF THE CASE

A hearing was held before the Single Commissioner on April 9, 2013 in Anderson, South Carolina to determine issues as set forth on Forms 50 and 51. Claimant alleged injury by accident arising out of and in the course and scope of his employment as a van driver with Meditam on July 5, 2012. Specifically, Claimant was employed as a van driver and was struck by a third party vehicle while transporting patients for medical appointments. Claimant alleged an aggravation or exacerbation of a pre-existing back condition and requested a finding by the Commission that he was entitled to causally-related medical treatment until released by a doctor at maximum medical improvement. Claimant further asserted entitlement to temporary total disability from the date of the accident to the present and continuing.

Defendants denied Claimant sustained a compensable injury by accident under S.C. Code Ann. §42-9-35 and §42-1-160. Specifically, Defendants asserted that Claimant did not prove by a preponderance of the evidence that his subsequent injury aggravated his pre-existing condition as required under §42-9-35. Further, Defendants asserted that Claimant is not credible and specifically requested a finding of credibility at the hearing.

The Single Commissioner made the following findings of fact: that when the Single Commissioner reviewed the medical records as a whole, they clearly show Claimant had numerous complaints of severe back pain leading up to the March 12, 2012 and July 5, 2012 accidents; that when Dr. Reing was presented with the pre-injury medical reports, even he had to rescind his opinion as to causal connection between Claimant's complaints of pain, back spasms, MRI results and the March 12, 2012 and July 5, 2012 accidents.; specifically, Dr. Reing testified he could no longer state to a reasonable degree of medical certainty that either the March 12, 2012 or the July 5, 2012 injury aggravated or exacerbated Claimant's pre-existing back

condition; that although Claimant's family physician, Dr. Malvern, testified that she believed the March 12, 2012 and July 5, 2012 injuries aggravated Claimant's pre-existing back injuries, she admitted that as an internal medicine specialist, she would have to defer to the orthopedist who treated Claimant; that Claimant is not credible, he was not only inconsistent in his hearing testimony compared to his deposition testimony, but the medical evidence also contradicts his testimony as well; that though Claimant may be a poor historian, in his testimony, Claimant repeatedly stated that he "never" specifically complained of back pain in the months leading up to the accident; that based on this evidence as a whole, the Single Commissioner did not find that Claimant met his burden of proof in this case under S.C. Code Ann. §42-1-160 or S.C. Code Ann. §42-9-35. This appeal was timely filed thereafter.

EVIDENCE OF THE CASE

At the hearing before the Single Commissioner, the Commission's file and the Commissioner's notes were made a part of the record of the hearing without objection. Over the objection of Defendants due to a lack of a duly issued subpoena by Claimant's attorney, Dr. Lori Malvern was called to testify on behalf of Claimant. Dr. Malvern testified that she currently practices medicine at New Horizon Family Health where she has been practicing for over two years. (Hrg. Trs. p. 12, lines 10-12). Based on her testimony regarding her education and experience and without objection by Defendants, Dr. Malvern was qualified as an expert in internal medicine and family medicine. (Hrg. Trs. p. 14, lines 6-15).

Dr. Malvern testified that she began treating Claimant on May 9, 2011. (Hrg. Trs. p. 15, lines 2-3). Claimant was previously treating with other doctors at New Horizon before he began treating with Dr. Malvern. (Hrg. Trs. p. 15, lines 4-5). Dr. Malvern testified that Claimant had

chronic back pain when she first started treating him in 2011. (Hrg. Trs. p. 16, lines 2-6). His back pain was treated with Ultram and it was thought that his back pain was secondary to degenerative disc disease. (Hrg. Trs. p. 16, lines 6-14).

Dr. Malvern also treated Claimant for high blood pressure, high cholesterol and diabetes. (Hrg. Trs. p. 17, lines 7-9). Dr. Malvern testified that from May 2010 through May 2012, the box on Claimant's medical records that lists his chief complaints do not specifically say back pain. (Hrg. Trs. p. 18, lines 1-5).

Dr. Malvern next testified that she was aware of a lifting injury at work. However, Dr. Malvern was unable to remember what Claimant lifted that caused the pain. (Hrg. Trs. p. 19, lines 15-19). Following the lifting injury, Claimant was prescribed Tramadol. (Hrg. Trs. p. 19, lines 23-24). Claimant had been on Tramadol prior to the lifting accident and took it intermittently. (Hrg. Trs. p. 20, lines 1-3). Claimant returned to work following the lifting accident. (Hrg. Trs. p. 20, lines 23-24).

Dr. Malvern first saw Claimant on August 3, 2012 following his car accident. (Hrg. Trs. p. 21, lines 5-8). Claimant complained of tenderness in his low back, difficulty getting in and out of chairs and difficulty getting up onto the exam table. (Hrg. Trs. p. 21, lines 22-25). Dr. Malvern testified that she believes to a reasonable degree of medical certainty that the July 5, 2012 automobile accident aggravated Claimant's pre-existing back condition. She further testified to a reasonable degree of medical certainty that Claimant needs additional treatment for his back. (Hrg. Trs. p. 22, lines 19-22). Dr. Malvern further testified to a reasonable degree of medical certainty that she did not believe Claimant could return to work as a van driver at this time. (Hrg. Trs. p. 23, lines 8-12).

On cross-examination, Dr. Malvern testified that she would defer to an orthopedist for their specialty for a back claim. (Hrg. Trs. p. 25, lines 13-15). Further, she testified that she would defer to the opinion of an orthopedist that has had a chance to review Claimant's symptoms, MRI and their findings. (Hrg. Trs. p. 25, lines 15-17).

Dr. Malvern next clarified that while the chief complaint listed on Claimant's charts prior to the accident were never about back pain; his chief complaints following the accident were never back pain either. Dr. Malvern testified that she relies heavily on a patient's subjective complaints and that she relies on her patients being honest in their reporting of symptoms. (Hrg. Trs. p. 27, lines 16-21). Specifically, she testified that one of her main factors in opining that the Claimant had aggravated his back injury were his subjective complaints. (Hrg. Trs. p. 27, lines 22-24).

Dr. Malvern admitted to treating Claimant on May 9, 2011 when he complained of sharp pains in his back that took his breath away. (Hrg. Trs. p. 28, lines 4-7). Further, Dr. Malvern recalled noting that Claimant had tenderness across his mid-back and shooting pains in his back that were happening more frequently. (Hrg. Trs. p. 28, lines 9-14). Dr. Malvern confirmed that she had a chance to review Claimant's records from New Horizon Clinic from before she began treating him and that she reviewed the notes from October 29, 2010 where it was noted that Claimant had chronic back pain secondary to herniated disc. (Hrg. Trs. p. 28, lines 16-210). Further, she reviewed records from October 1, 2010 where it was noted Claimant had chronic back and pain beginning in the T-spine radiating to the front. (Hrg. Trs. p. 28, lines 23-25). Dr. Malvern also noted that Claimant reported pain in his lower back with spasms on May 26, 2010. (Hrg. Trs. p. 29, lines 2-5). Dr. Malvern was Claimant's primary care physician on February 10, 2012, one month prior to the alleged lifting accident, when Claimant reported having back pain

and muscle spasms. (Hrg. Trs. p. 29, lines 15-19). Dr. Malvern confirmed that she recommended Ibuprofen and muscle relaxers and that she noted he was very stressed secondary to his finances and work. (Hrg. Trs. p. 29, lines 20-25).

Dr. Malvern indicated that tenderness in Claimant's back was an objective complaint that helped her substantiate her opinion of aggravation. (Hrg. Trs. p. 30, lines 1-4). When questioned how she was able to differentiate the tenderness he was experiencing following the accident to that before the accident, she indicated that she relies on his subjective complaints. (Hrg. Trs. p. 30, lines 5-9). Finally, Dr. Malvern again confirmed that she would defer to the opinion of an orthopedist. (Hrg. Trs. p. 30, lines 14-16).

On redirect examination, Dr. Malvern testified that she would defer Claimant's treatment to someone who specializes in backs. (Hrg. Trs. p. 31, lines 8-10). However, she testified that she is qualified to render an opinion on causation. (Hrg. Trs. p. 31, lines 12-17).

Claimant was the next witness to testify. Claimant testified that he was last employed as a medical driver for Meditam. (Hrg. Trs. p. 36, lines 2-4). His responsibilities were to pick up clients, take them to the medical appointments and pick them up following their appointments. He does not require a special license for his position. (Hrg. Trs. p. 36, lines 7-11). Prior to working for Meditam, Claimant worked for LeFleur Transportation as a medical driver. He also worked for Senior Solutions as a medical driver. (Hrg. Trs. p. 37, lines 5-6). Claimant did not graduate from high school, but got a GED. He did not attend any college or additional education beyond his GED. (Hrg. Trs. p. 37, lines 17-19).

Claimant testified that he initially injured himself while working for Meditam in March 2012 while picking up a wheelchair and putting it into a van. (Hrg. Trs. p. 38, lines 6-7). He testified that he reported the accident to Angie and asked her for workers' compensation

treatment. (Hrg. Trs. p. 38, lines 11-13). He did not ever receive any treatment from the employer and missed approximately one week of work. (Hrg. Trs. p. 38, lines 14-18). Claimant testified that he treated with a chiropractor following the March accident and that the chiropractor helped his pain. (Hrg. Trs. p. 38, lines 2-5). He testified that he was not getting any specific medical treatment for his back in July 2012 prior to the car accident. (Hrg. Trs. p. 39, lines 11-13).

Claimant next testified that on July 5, 2012 he was stopped at a red light when another driver slammed into the back of his van. (Hrg. Trs. p. 39, lines 18-19). All of the passengers in the van, including Claimant, were transported to the hospital by ambulance. (Hrg. Trs. p. 40, lines 1-3). The police filled out an accident report which was submitted at APA #6, pgs. 84-85. Claimant testified that the back of the van as pushed in by 8 to 12 inches and that the impact was very severe. (Hrg. Trs. p. 42, lines 2-6).

Claimant testified that he notified Candy and Angie at Meditam of the accident. (Hrg. Trs. p. 42, lines 18-19). Claimant denied ever being sent to a doctor by his employer or workers' compensation. (Hrg. Trs. p. 43, lines 14-19).

Claimant testified that he was written out of work by Drs. Malvern and Reing. (Hrg. Trs. p. 43, lines 22-24). He has not worked since the date of the accident. (Hrg. Trs. p. 43, line 25).

Claimant testified that he feels he needs additional medical treatment, including physical therapy. (Hrg. Trs. p. 44, lines 1-9). He testified that he experiences muscle spasms all day long. (Hrg. Trs. p. 44, lines 11-12).

Claimant admitted to having back problems since 1993, but indicated that he learned to deal with the pain. (Hrg. Trs. p. 44, lines 20-22). Claimant was injured in a car accident in 1993 and had three herniated disc in his back and a strained neck as the result of the same. (Hrg. Trs.

p. 45, lines 1-7). Claimant testified that after the accident in 1993, his back hurt every day and that there has not been a day since 1993 that his back did not hurt. (Hrg. Trs. p. 45, lines 20-25). Claimant testified that after he finished treatment in 1993, his back was livable as long as he did not do things like bending or lifting a tremendous amount of weight. (Hrg. Trs. p. 47, lines 15-20). Claimant testified that since 1993, he had aggravations to his back pain from doing activities like changing a set of spark plugs. (Hrg. Trs. p. 48, lines 2-5). Claimant admitted to being prescribed Ultram, Flexeril, and Lortab for his back pain prior to the accident. (Hrg. Trs. p. 49, line 19).

Claimant next testified that when he was asked in his deposition whether he had complained to a doctor about back pain in the last five years and indicated that he had not, he denied the same because he never specifically went to the doctor to complain about his back. (Hrg. Trs. p. 51, lines 5-15). He would complain to Dr. Malvern about a variety of problems, including his back pain. (Hrg. Trs. p. 51, lines 11-14).

Claimant testified that since the car accident in July 2012, there are days that he can barely walk. He feels like there is a dull knife blade that goes between his shoulders and the pain never stops. (Hrg. Trs. p. 51, lines 21-24). Claimant is currently taking Flexeril and Lortab for his back pain. (Hrg. Trs. p. 52, lines 15-17). Claimant testified that his current back pain level is around 8 out of 10. (Hrg. Trs. p. 53, lines 14-15). He testified that he has problems bending down, walking correctly and getting in and out of chairs. (Hrg. Trs. p. 54, lines 2-7). Finally, Claimant testified that he still thinks he needs additional medical treatment and does not believe he can return to work as a van driver.

On cross-examination, Claimant again testified that there has not been a day that has gone by since 1993 that he has not had any back pain. (Hrg. Trs. p. 55, lines 23-25). At this

time, Claimant's deposition transcript was entered for impeach purposes. (Hrg. Trs. p. 56, lines 2-3). During his deposition, Claimant was asked whether he was still having problems with his back following the car accident in 1993. At the deposition, Claimant responded "actually my back never felt better". (Hrg. Trs. p. 57, lines 1-10). Claimant testified at the hearing that his deposition testimony was correct and that he was exercising his back during that time and that is why he felt as good as he did. (Hrg. Trs. p. 57, lines 12-14). Claimant was next questioned on his deposition testimony that his back pain had completely resolved before March 2012. (Hrg. Trs. p. 58, lines 7-9). Claimant testified at the hearing that he indicated that his back pain had completely resolved at his deposition because he had learned to live with the pain and it was the normal pain for him. (Hrg. Trs. p. 58, lines 10-13). Claimant's deposition testimony was next used to impeach Claimant on his deposition testimony that he had not complained to a doctor about any back pain in the past five years. At his deposition, Claimant was specifically asked "have you complained to a doctor about any back pain in the past five years" and Claimant answered in the negative. (Hrg. Trs. p. 58, lines 19-22). At the hearing, Claimant testified that he denied complaining to a doctor about back pain at his deposition because he thought the question was referring to a specialist. (Hrg. Trs. p. 58, lines 22-23). Claimant's deposition transcript was further used to question Claimant on his denial of problems with his back prior to March 2012 at his deposition. Claimant indicated that he misinterpreted the question on whether he had problems with his back prior to March 2012. (Hrg. Trs. p. 59, lines 12-17). Finally, Claimant's deposition transcript was used to impeach Claimant on his deposition testimony that he had not complained specifically about his back or neck in the past five years. (Hrg. Trs. p. 59, lines 18-23). Claimant testified that he never realized he said anything to Dr. Malvern about his back until it was pointed out to him at the hearing. (Hrg. Trs. p. 60, lines 1-7).

Claimant denied any recollection of treating with Dr. Malvern and complaining of back pain with muscle spasms on February 10, 2012. (Hrg. Trs. p. 60, lines 13-15). Claimant admitted to being prescribed to Flexeril prior to the accident and agreed that he was prescribed Flexeril for back pain one month before his alleged accident. (Hrg. Trs. p. 60, lines 21-23). Claimant next testified that he recalled telling Dr. Malvern that he was stressed about his finances and work. (Hrg. Trs. p. 61, lines 1-9). He stated that he was stressed out because he was not getting paid and that he had to fight to get his money every week. (Hrg. Trs. p. 61, lines 2-9). Claimant confirmed that he reported being stressed in August 2011 because he thought he was going to be laid off from his job. (Hrg. Trs. p. 62, lines 9-13).

When asked whether he recalled treating with Dr. Malvern in May 2011 complaining of sharp pains in his back that took his breath away, Claimant indicated that he does not remember it but that he is sure that he said it because it is written down. (Hrg. Trs. p. 62, lines 18-25).

Claimant testified that he does recall telling Dr. Reing in January 2013 that he was experiencing thoracic pain that took his breath away. (Hrg. Trs. p. 63, lines 7-10). Claimant next testified that he does not have health insurance. (Hrg. Trs. p. 64, lines 3-4). Claimant confirmed that he complained of chronic back pain beginning in the thoracic spine that radiated to the front in October 2010. (Hrg. Trs. p. 64, lines 5-10). Further, he indicated that he was likely experiencing muscle spasms in his back prior to the accident in March 2012. (Hrg. Trs. p. 64, lines 11-12).

Claimant next testified that prior to the accident in March 2012 he only experienced back pain when he overdid something. (Hrg. Trs. p. 65, lines 1-4). He further testified that it was likely he just overdid something in February 2012, August 2011, May 2011, November 2010 and

twice in October 2010 when he had complained about back pain to New Horizon. (Hrg. Trs. p. 65, lines 5-8).

While Claimant testified that he did tell Dr. Reing that he had problems with his back, Dr. Reing testified in his deposition that Claimant did not have any problems with his back for many years until after March. (Hrg. Trs. p. 66, lines 8-11). Further, Dr. Reing's testimony that Claimant had told him about the lifting incident but did not tell him about the other incident was read into the record. (Hrg. Trs. p. 67, lines 17-25).

Claimant admitted that his airbag did not deploy in the car accident. (Hrg. Trs. p. 68, lines 20-22). Claimant again testified that there was significant damage to the rear bumper of the car and that the car accident was a significant hit. (Hrg. Trs. p. 69, lines 4-9). At this time, APA #8 was referenced where it indicates that there was only minor damage to the rear bumper. (Hrg. Trs. p. 69, lines 13-15).

On re-direct examination, Claimant testified that he was stressed at work because he wasn't being paid as he was supposed to be paid. (Hrg. Trs. p. 72, lines 2-7). Claimant indicated that he worked between 50 to 70 hours a week and would write down how many miles he drove in order to get paid. (Hrg. Trs. p. 72, lines 17-21). He further indicated that he had to write on his timesheet many times about not getting paid. (Hrg. Trs. p. 73, lines 7-10). He testified that he was not being paid weekly or every two weeks. (Hrg. Trs. p. 74, lines 3-7).

The medical evidence indicates that Claimant initially received treatment at Greenville Memorial Hospital on July 5, 2012 complaining of lower back pain following a motor vehicle accident where Claimant was rear-ended at low impact. (APA No. 1, p. 1). Claimant reported moderate back pain and neck pain. (APA No. 1, p. 2). CT scans taken of Claimant's lumbar

spine, thoracic spine, pelvis and cervical spine all returned with normal results showing no acute injury. (APA No. 1, pgs. 13-18).

Medical evidence further indicates that Claimant treated with New Horizon Family Health Services on May 26, 2010 complaining of pain in his lower back and spasms. He was prescribed Ultram at this appointment. (APA No. 11, p. 152). Claimant next treated with New Horizon Family Health Services on October 1, 2010 reporting chronic back pain and pain beginning in the thoracic spine radiating to the front. He was again prescribed Ultram and an MRI was recommended. (APA No. 11, p. 150). Claimant again reported chronic back pain secondary to herniated disc to New Horizon Family Health Services on October 29, 2010. (APA No. 11, p. 149). On November 8, 2010, Claimant reported to New Horizon Family Health Services that he had not had the thoracic spine films done. He continued to complain of chronic lower back pain and it was noted that he likely had degenerative disc disease. (APA No. 11, p. 148). On February 8, 2011, Claimant complained of chronic lower back pain and was continued on Ultram. (APA No. 11, p. 147). On May 9, 2011, Claimant reported sharp pains in his back that take his breath away at times. It is noted that he has degenerative disc disease in his back and that he has shooting pains in his back that are happening more frequently. Tenderness was noted across his mid-back and he was prescribed Flexeril. (APA No. 11, p. 146). On August 8, 2011, it was noted Claimant was still experiencing back pain and that he was very stressed as he was going to be laid off later in the month. (APA No. 1, p. 21). On February 10, 2012, Claimant reported back pain and muscle spasms. He was instructed to take Ibuprofen and muscle relaxers.

Following the initial alleged accident in March 2012, Claimant treated at New Horizon Family Health Services on March 14, 2012 reporting acute back pain that requires physical therapy, but reported that he had no insurance. (APA No. 2, p. 24). On July 12, 2012, Claimant

treated with New Horizon Family Health Services reporting neck and back pain as the result of a car accident on July 5th. (APA No. 2, p. 27). Claimant continued to treat with New Horizon Family Health Services for his back until he was ultimately referred to an orthopedist.

Claimant initially treated with Dr. Michael Reing of Anderson Bone & Joint on November 1, 2012. He was diagnosed with low back pain and physical therapy was recommended. (APA No. 3, pgs. 39-40). On January 24, 2013, Claimant treated with Dr. Reing reporting that he hurts all over but mostly in the low back and that he is experiencing thoracic pain that takes his breath away. (APA No. 3, p. 55). An MRI of his lumbar spine was reviewed which showed some degenerative changes but no frank disc rupture. (APA No. 3, p. 57). On March 12, 2013, Claimant reported to Reing that he is still experiencing thoracic, lower and mid-back pain. (APA No. 3, p. 59).

Claimant was evaluated by Dr. Daniel Lee of Foothills Orthopedics & Sports Medicine Center on December 26, 2012. Dr. Lee reviewed Claimant's subjective complaints and MRI and noted that his complaints of pain do not anatomically correlate to any of his MRI findings. (APA No. 12, p 155). Dr. Lee opined that the MRI findings were consistent with pre-existing degenerative changes related to normal living activities and aging. Further, he opined that did not believe to a reasonable degree of medical certainty that the objective findings were work related. (APA No. 12, p. 156).

Dr. Reing's deposition transcript was submitted into evidence at the hearing. Dr. Reing is board certified in orthopedic surgery and was qualified as an expert in orthopedic spine surgery by Claimant's attorney at the deposition. Dr. Reing initially opined to a reasonable degree of medical certainty that the car accident in July 2012 aggravated a pre-existing back condition. Specifically, Dr. Reing testified "[i]n review of the MRI and examination and his history, which

he wouldn't say he had any problems, I would say that the accident was the temporal cause of his pain." (Dr. Reing Depo. Tr. P. 15, lines 20-23). However, after being shown medical records from New Horizon indicating Claimant had treated numerous times for chronic back pain over the prior two years, Dr. Reing testified that he could no longer state to a reasonable degree of medical certainty that the back pain was causally related to the accident as Claimant was not credible in his reporting of his history of back pain. (Dr. Reing Depo. Tr. P. 40-41; 47).

STANDARD OF REVIEW

Under S.C. Code Ann. § 42-17-50, an Appellate Panel is empowered to review the appealed award, weigh the evidence as presented at the initial hearing, and, if good grounds are shown, make its own factual findings and legal conclusions consistent with or inconsistent with the Hearing Commissioner.

Based upon its review of all the evidence on the record in this case, the Panel hereby affirms the Order of the Hearing Commissioner in full. Accordingly, the Panel makes the following Findings of Fact and Rulings of Law:

FINDINGS OF FACT

1. This case turns mainly on the medical reports. When the panel reviews the medical records as a whole, they clearly show Claimant had numerous complaints of severe back pain leading up to the March 12, 2012 and July 5, 2012 accidents.
2. When Dr. Reing was presented with the pre-injury medical reports, even he had to rescind his opinion as to causal connection between Claimant's complaints of pain, back spasms, MRI results and the March 12, 2012 and July 5, 2012 accidents.

Specifically, Dr. Reing testified he could no longer state to a reasonable degree of medical certainty that either the March 12, 2012 or the July 5, 2012 injury aggravated or exacerbated Claimant's pre-existing back condition. This finding of fact is based on Dr. Reing's deposition transcript pages 40 to 41 and page 47, lines 15 to 24.

3. Although Claimant's family physician, Dr. Malvern, testified that she believed the March 12, 2012 and July 5, 2012 injuries aggravated Claimant's pre-existing back injuries, she admitted that as an internal medicine specialist, she would have to defer to the orthopedist that treated Claimant.
4. Claimant is not credible. He was not only inconsistent in his hearing testimony compared to his deposition testimony, but the medical evidence also contradicts his testimony as well. This finding is based on the Single Commissioner's observation of Claimant and his testimony at the hearing. Though Claimant may be a poor historian, in his testimony, Claimant repeatedly stated that he "never" specifically complained of back pain in the months leading up to the accident. Even when presented with medical records taken into the contrary, he was reluctant to acknowledge the same.
5. Based on this evidence as a whole, the panel does not find that Claimant met his burden of proof in this case under S.C. Code Ann. §42-1-160 or S.C. Code Ann. §42-9-35.

RULINGS OF LAW

Accordingly, as provided in S.C. Code Ann. §42-17-50 and pursuant to other applicable law, it is the determination of this Panel that:

1. That under §42-1-160 and other applicable law, the Claimant did not sustain injuries by an accident arising out of and in the course of his employment.

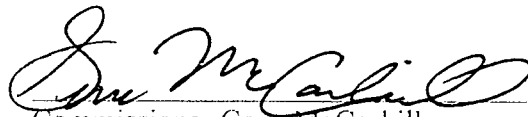
2. That under S.C. Code Ann. §42-9-35, Claimant did not meet his burden of proof that the alleged injury aggravated a pre-existing condition.

ORDER

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Order of the Single Commissioner is AFFIRMED IN FULL.

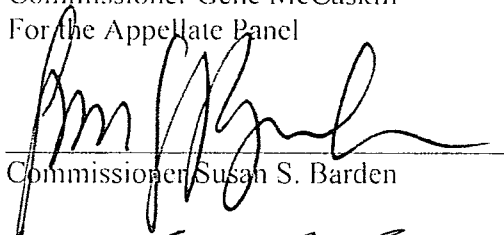
AND IT IS SO ORDERED.

SO ORDERED.



Commissioner Gene McCaskill
For the Appellate Panel

WE CONCUR:



Commissioner Susan S. Barden



Commissioner Andrea C. Roche

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 Valerie Deller on December 12, 2013

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