

PETITION FOR A WRIT OF CERTIORI TO THE COURT OF APPEALS

RECEIVED

FEB - 5 2015

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA COURT OF APPEALS
Court of Common Pleas

John C. Few, Chief Justice; James Lockemy, Justice; Jasper M. Cureton, Associate
Justice

Appellate Case No. 2014-001676 (S.C. Ct. App. Filed January 8, 2015)

Russell Goodwin,.....Petitioner,

v.

Employbridge dba Prologistix, Employer, and
American Casualty Company of Reading PA,Respondents.

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

T. Jeff Goodwyn, Jr., Esquire
Goodwyn Law Firm, LLC
2519 Devine Street
Suite A
Columbia, South Carolina 29205
(803) 251-4517
Attorney for Petitioner

John Gabriel Coggiola
Willson Jones Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, SC 29209
(803) 227-2889
Attorney for Respondent

The South Carolina Court of Appeals

Russell Goodwin, Claimant, Appellant,


v.

Employbridge dba Prologistix, Employer, and American
Casualty Company of Reading PA, Respondents.

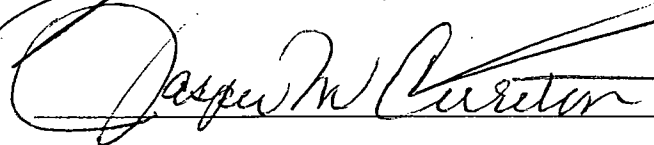
Appellate Case No. 2014-001676

ORDER

This appeal was dismissed due to Appellant's failure to timely serve the notice of appeal on Respondents. Appellant has filed a motion to reinstate, which we construe as a petition to rehear the dismissal of this appeal. After careful consideration, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing or reinstating the appeal. Accordingly, the petition for rehearing is denied.


C.J.


J.


A.J.

Columbia, South Carolina

FILED
1/8/15

cc:

Thomas Jefferson Goodwyn, Jr., Esquire

Justin Thomas Williams, Esquire

John Gabriel Coggiola, Esquire

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SOUTH CAROLINA
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

T. Scott Beck, Commissioner for the Appellate Panel;
Andrea C. Roche, Commissioner, and Avery B. Wilkerson, Jr., Commissioner,
concurring

WCC File No.: 1108188

Appellate Case No.: 2014-001676

Russell Goodwin, (Employee/Claimant),Appellant,
v.
Employbridge d/b/a Prologistix (Employer) and
American Casualty Company of Reading PA (Carrier), Respondents.

**RESPONDENTS' RETURN TO APPELLANT'S MOTION FOR
RECONSIDERATION**

Respondents, by and through the undersigned attorney, hereby file this Response to Appellant's November 12, 2014, Motion to Reconsider. Although Appellant's Proof of Service indicates that Respondents were served on November 12, 2014, Respondents never received a copy of Appellant's Motion until it was faxed on December 5, 2014. As such, Respondents appropriately respond to this motion within the ten (10) days allowed by Rule 240(e), SCACR.

Although the rules do not specifically set forth a test for a "motion to reconsider,"

the purpose of a petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor is the purpose of a petition for rehearing to have the case tried in the appellate court a second time. Kennedy v. South Carolina Retirement System, 564 S.E.2d 322, 349 S.C. 531 (S.C. 2001). In this case, the Court did not overlook or misapprehend any evidence or arguments of the Appellant, and the Court appropriately ruled that in accordance with Rule 263(b), SCACR, “the time prescribed by these Rules for performing any act *except for the time for serving the notice of appeal under Rules 203 and 243* may be extended or shortened by the appellate court, or by any judge or justice thereof.”

Conclusion

For the reasons set forth above, Respondents respectfully request the Court deny Appellant’s Motion for Reconsideration. Appellant has failed to demonstrate any points that were overlooked or misapprehended by the Court, and instead simply restates the previous arguments made before the Court.

Respectfully Submitted,



J. Gabriel Coggiola, Esquire
Justin T. Williams, Esquire
Willson, Jones, Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, South Carolina 29209
(803) 227-2889
Attorneys for Respondents

December 8, 2014
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SOUTH CAROLINA
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

T. Scott Beck, Commissioner for the Appellate Panel;
Andrea C. Roche, Commissioner, and Avery B. Wilkerson, Jr., Commissioner, concurring

WCC File No.: 1108188

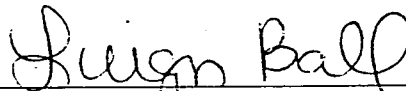
Appellate Case No.: 2014-001676

Russell Goodwin, (Employee/Claimant),Appellant,
v.
Employbridge d/b/a Prologistix (Employer) and
American Casualty Company of Reading PA (Carrier), Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, she served Counsel for Appellant with a copy of **Respondents' Return to Appellant's Motion to Reconsider** by mailing a copy of the same by United States Mail with first class postage prepaid to the following address:

T. Jeff Goodwyn
Goodwyn Law Firm, LLC
2519 Devine Street, Suite A
Columbia, South Carolina 29205
Attorney for Appellant



Leigh Ball, Legal Assistant to J. Gabriel Coggiola, Esquire
Willson, Jones, Carter & Baxley
4500 Fort Jackson Blvd.
Columbia, South Carolina
(803) 782-2519

December 8, 2014
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

RECEIVED
NOV 17 2014

Avery B. Wilkerson, Jr., Commissioner;
Andrea C. Roche, Commissioner, and T. Scott Beck, Commissioner, concurring

SC Court of Appeals

S.C.W.C.C. Case No.: 1108188

Russell GoodwinAppellant,

v.

Employbridge dba Prologistix, Employer, and American Casualty Company of
Reading PA, CarrierRespondents.

MOTION TO RECONSIDER

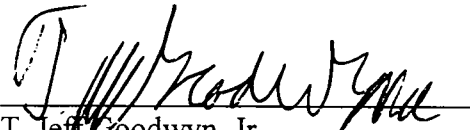
An Order was entered by this Court on November 5, 2014 for the above referenced claim, denying Appellant's request for a tolling of the deadline under the Americans with Disabilities Act to file a notice of appeal.

Appellant requested this Court toll the deadline pursuant to the Americans with Disabilities Act (ADA) and find the Appellant *non compos mentis*. In its dismissal of Appellant's motion to file his notice of appeal out of time, this Court did not specifically address the applicability of the ADA or determine whether Appellant was *non compos mentis*.

WHEREFORE, for the above reasons, the Appellant respectfully request this Court reconsider the arguments put forth and specifically address the applicability of the ADA to this case.

- signature page to follow -

November 12, 2014

A handwritten signature in black ink, appearing to read "T. Jeff Goodwyn, Jr.", written over a horizontal line.

T. Jeff Goodwyn, Jr.
Goodwyn Law Firm, LLC
2519 Devine Street, Suite A
Columbia, South Carolina 29205
(803) 251-4517
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

NOV 17 2014

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

SC Court of Appeals

Avery B. Wilkerson, Jr., Commissioner;
Andrea C. Roche, Commissioner, and T. Scott Beck, Commissioner, concurring

S.C.W.C.C. Case No.: 1108188
Appellate Case No.: 2014-001676

Russell GoodwinAppellant,

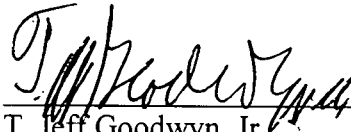
v.

Employbridge dba Prologistix, Employer, and American Casualty Company of
Reading PA, CarrierRespondents.

PROOF OF SERVICE

I certify that I have served the Appellant's Motion to Reconsider on Justin T. Williams, Esquire and John G. Coggiola, Esquire, Attorneys for the Respondents at Willson, Jones, Carter & Baxley, P.A., 4500 Fort Jackson Blvd., Columbia, SC 29209 by depositing a copy of same in the United States Mail, postage prepaid, on November 2, 2014.

GOODWYN LAW FIRM, LLC



T. Jeff Goodwyn, Jr.
2519 Devine Street, Suite A
Columbia, South Carolina 29205
JGoodwyn@goodwynlaw.com
Attorney for Appellant

November 12, 2014

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE RALEIGH ATLANTA

John Gabriel Coggiola
Direct (803) 227-2889
Fax (803) 782-2527
jgcoggiola@wjlaw.net

4500 Fort Jackson Boulevard
Columbia, SC 29209
www.wjclaw.net

September 12, 2014

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

Re: Russell Goodwin vs Employbridge dba Pro Drivers
 Appellate Case No.: 2014-001676
 WCC File No.: 1108188 DOI: 7/5/2011
 Carrier: American Casualty Company of Reading PA - Claim No.: 001196006729WC01
 WJC&B File No.: 0090.01185

Dear Ms. Kitchings:

Pursuant to Rule 240(e), please find enclosed an original and six (6) copies of **Respondents' Return to Appellant's Motion to File Out of Time**, and Proof of Service for the same. By copy of this letter, I am serving the same upon T. Jeff Goodwyn, attorney for Appellant.

I appreciate your attention on this matter. If you have any questions or concerns, please do not hesitate to contact me.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



John Gabriel Coggiola

JGC/jgc
Enclosure(s)

cc: Ms. Adrian Bryant (via email)
 T. Jeff Goodwyn, Jr., Esquire

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SOUTH CAROLINA
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

T. Scott Beck, Commissioner for the Appellate Panel;
Andrea C. Roche, Commissioner, and Avery B. Wilkerson, Jr., Commissioner,
concurring

WCC File No.: 1108188

Appellate Case No.: 2014-001676

Russell Goodwin, (Employee/Claimant),Appellant,
v.
Employbridge d/b/a Prologistix (Employer) and
American Casualty Company of Reading PA (Carrier), Respondents.

**RESPONDENTS' RETURN TO APPELLANT'S MOTION TO FILE OUT OF
TIME**

Pursuant to Rule 203(b)(6), SCACR, a party has thirty (30) days to file a Notice of Appeal from an administrative tribunal. In this case, Appellant seeks to file a Notice of Appeal of the May 20, 2014 Order of the Full Appellate Panel of the South Carolina Workers' Compensation Commission. Appellant contends he received written notice of Order on May 25, 2014, but he did not file a Notice of Appeal until July 29, 2014. Since Appellant filed his Notice of Appeal over one month past the 30 day deadline set forth in Rule 203(b)(6), Respondents respectfully request that this Court dismiss the appeal.

In his motion, Appellant argues that a tolling of the thirty (30) day time period for filing a Notice of Appeal may be warranted upon showing that Appellant was *non compos mentis*. Appellant cites a United States Court of Appeals, District of Columbia Circuit case to define *non compos mentis* as “incapable of handling her own affairs or unable to function in society” and “unable to engage in rational thought and deliberate decision making sufficient to pursue her claim alone or through counsel.” Smith-Haynie v. District of Columbia and Addison Davis, 155 F.3d 575 (D.C. Cir. 1998).

In this case, Appellant appeared *pro se* at both his June 12, 2013 hearing before the Single Commissioner and his February 18, 2014 hearing before the Workers Compensation Commission Full Appellate Panel. At his first hearing, Commissioner Taylor discussed the Appellant’s right to counsel in the pre-hearing conference and at the outset of the hearing on the record. Appellant was advised of his rights to seek legal counsel, and he chose to proceed *pro se*. Appellant did not retain his current counsel until July 29, 2014, the date his Notice of Appeal was filed. Clearly, Appellant has been able pursue his claim through a Workers Compensation Commission hearing and appeal on his own, and he refused offers to postpone his case in order to allow him time to seek representation.

Appellant’s counsel alleges the deadline for filing his Notice of Appeal should be tolled based on Appellant’s disability that arises from mental illness. In support of his argument, Appellant submitted medical records from the South Carolina Department of Mental Health dated June 14, 2011, June 22, 2011, and April 4-5, 2013. The records submitted with Appellant’s Motion indicate that Appellant suffers from (1) Major Depressive Disorder, (2) Cannabis abuse, (3) caffeine induced sleep disorder, and (4)

caffeine induced Anxiety Disorder, but the records do not support Appellant's argument that he was unable to handle his own affairs or function in society.

Based on the fact that no records exist to show Appellant was incapable of handling his own affairs or functioning in society, and the fact that Appellant was able to pursue his works compensation claim on his own through a hearing and Full Commission appeal, Respondents assert that Appellant has been able to engage in rational thought and deliberate decision making sufficient for him to pursue his claim, and the Court should therefore deny his current motion to file out of time.



J. Gabriel Coggiola, Esquire
Justin T. Williams, Esquire
Willson, Jones, Carter & Baxley, P.A.
4500 Fort Jackson Boulevard
Columbia, South Carolina 29209
(803) 227-2889
Attorneys for Respondents

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SOUTH CAROLINA
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

T. Scott Beck, Commissioner for the Appellate Panel;
Andrea C. Roche, Commissioner, and Avery B. Wilkerson, Jr., Commissioner, concurring

WCC File No.: 1108188

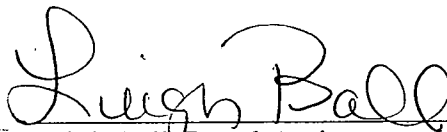
Appellate Case No.: 2014-001676

Russell Goodwin, (Employee/Claimant),Appellant,
v.
Employbridge d/b/a Prologistix (Employer) and
American Casualty Company of Reading PA (Carrier), Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, she served Counsel for Appellant with a copy of **Respondents' Return to Motion to File Out of Time** by mailing a copy of the same by United States Mail with first class postage prepaid to the following address:

T. Jeff Goodwyn
Goodwyn Law Firm, LLC
2519 Devine Street, Suite A
Columbia, South Carolina 29205
Attorney for Appellant



Leigh Ball, Legal Assistant to J. Gabriel Coggiola, Esquire

September 12, 2014
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

SEP 02 2014

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

SC Court of Appeals

Avery B. Wilkerson, Jr., Commissioner;
Andrea C. Roche, Commissioner, and T. Scott Beck, Commissioner, concurring

S.C.W.C.C. Case No.: 1108188
Appellate Case No.: 2014-001676

Russell GoodwinAppellant,

v.

Employbridge dba Prologistix, Employer, and American Casualty Company of
Reading PA, CarrierRespondents.

MOTION TO FILE OUT OF TIME

The Plaintiff, Russell Goodwin, appeals the Order of the South Carolina Workers' Compensation Commission filed and served on May 20, 2014. Appellant received written notice of the entry of the Order on May 25, 2014. Counsel for Appellant was retained the date of the filing of the notice of appeal. Although the notice of appeal was filed more than 30 days after the receipt of the underlying order, appellant requests a tolling of the deadline for Appellant under the Americans with Disabilities Act to allow for an extended filing period given the pro se Appellant's long running mental illness.

Equitable tolling of statutes of limitations may be warranted upon showing that the plaintiff was *non compos mentis*. *Speiser v. U.S. Dep't of Health and Human Servs.*, 670 F.Supp. 380, 384 (D.D.C. 1986). To be *non compos mentis*, one must be "incapable

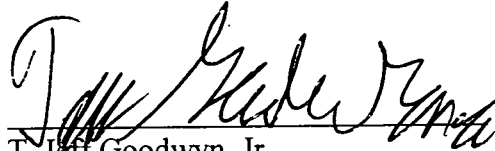
of handling her own affairs or unable to function in society.” *Smith-Haynie*, 155 F.3d at 580; *Perry*, 669 F. Supp. 2d at 66. An individual must show that she was “unable to engage in rational thought and deliberate decision making sufficient to pursue her claim alone or through counsel.” *Smith-Haynie* 155 F.3d at 580 (quoting *Nunnally v. MacCausland*, 996 F.2d 1, 5 (1st Cir. 1993)).

Here, Mr. Goodwin requests an equitable tolling of the filing deadline for a notice of appeal based on disabilities arising from mental illness. Mr. Goodwin has long suffered from severe depression among other mental illnesses and does not live alone.

Mr. Goodwin’s medical records indicate that he has been diagnosed with major depression and severe lapses in memory (See SC Department of Mental Health dated June 22, 2011 attached as Exhibit “A”). For these issues, Mr. Goodwin was prescribed several different anti-psychotic, anti-depressant, and Alzheimer’s medications including Seroquel, Risperdal, Celexa, and Wellbutrin (See SC Department of Mental Health June 22, 2011 as Exhibit “A”). Unfortunately, these medications were ineffective to treat Mr. Goodwin’s conditions and he subsequently stopped taking them in 2011 (Exhibit “A”). Further, Mr. Goodwin suffers from anhedonia, social withdrawal, panic attacks, and both visual and audio hallucinations including a history of talking to people who are not actually there (See SC Department of Mental Health dated June 14, 2011 as Exhibit “B”). The symptoms suffered by Mr. Goodwin have been ongoing and continuous. In 2013 his physician again recognizes the hallucinations that Mr. Goodwin suffers from and further diagnoses him with MDD (Major Depressive Disorder) with psychotic features (See SC Department of Mental Health dated April 4, 2013 as Exhibit “C”).

Based upon the extensiveness and variety of the symptoms suffered by Mr. Goodwin in relation with his mental illnesses he is not able to engage in rational thought and deliberate decision making sufficient for him to pursue his claim alone. Thus, this court should equitably toll the filing deadline and allow his notice of appeal to be filed out of time.

September 2, 2014



T. Jeff Goodwyn, Jr.
Goodwyn Law Firm, LLC
2519 Devine Street, Suite A
Columbia, South Carolina 29205
(803) 251-4517
Attorney for Appellant

Justin T. Williams, Esquire
Willson, Jones, Carter & Baxley, P.A.
4500 Fort Jackson Blvd.
Columbia, SC 29209
(803) 782-2520
Attorney for Respondents

Explanation of Axis I diagnosis:

None

Prim Dx: Code Description

Axis II: No diagnosis for this axis

Explanation of Axis II diagnosis:

None

Axis III: Diabetic, on C-PAP but doesn't use it like he should, APNEA, hyperlipidemia

Axis IV: social

GAF:63 | Additional Rating: (describe)

THIS IS PRIVILEGE INFORMATION TAKEN FROM THE PATIENT'S MEDICAL RECORD. IT SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED BY ANY PERSON EXCEPT UNDER THE CONDITIONS OUTLINED UNDER SECTION 44-22-100, AS AMENDED.

Target Symptoms for Treatment

AV hallucinations	Flashbacks	Mania/hypomania	Thought disorganization
Agoraphobia	Hyperactive/inattentive	Oppositional	Trauma
Anxiety	Hypervocal	Obsessive/compulsive	Other
Delusions/paranoia	Irritability	SI/HI/Ideation/attempts	
Depression	Legal problems	Sleep/appetite disturbance	

Are You Court ordered? N/A

Recommendation for Treatment

Labs:	Therapeutic drug level:(describe)	HGA1C	Lipid panel	Liver profile
	BUN/Creatinine	FBS	BMT	
	UDS for drugs of abuse	Other diagnostic:(describe)		
	Thyroid function	Other diagnostic:(describe)		
	CBC / Diff	Other diagnostic:(describe)		
	Other labs ordered:(describe)			

MHC svc/Interventions:

Blood sugar	Drug screen	AIMS	AIMS Date:	Further education (describe)		
Individual therapy	Group therapy	Family therapy		Medication monitoring	Case management	<input checked="" type="checkbox"/> PMA

Other:

Medication Ordered

Mental Health Medication	Dosage	Frequency	Amnt	Refills	Date D/C	Sample	SmplDsg	SmplAmt
SEROQUEL	100	1qhs	30	2	06/22/11			
<i>Reason for deleting SEROQUEL: quit taking 2 months ago</i>								
RISPERDAL	2	1qhs	30	2	06/22/11			
<i>Reason for deleting RISPERDAL: quit taking 2 months ago</i>								
CELEXA	20	qam	30	2	06/22/11			
<i>Reason for deleting CELEXA: quit taking 2 months ago</i>								
WELLBUTRIN	150	qam	30	2	06/22/11			
<i>Reason for deleting WELLBUTRIN: quit taking 2 months ago</i>								
CELEXA	20mg	in am	30	0				

Physical Healthcare Medication

Dosage	Frequency	Purpose	Date of Deletion
diabetic will bring			

Other: OTC, Herbals, Vitamins, etc.

Dosage	Frequency	Purpose	Date of Deletion
No current medication			

Medication Education Provided:

Client	Family	Financial availability	Neuroleptic Consent
Medication, dose, time to take	Lab monitoring required/reason	Alternative to medication/Risk of no treatment	
Purpose/Expected benefits/Risk	Expected length of tx.	Other (describe)	
Common side effects	Effects on pregnancy/nursing		

Justification for Continued Treatment

Requires monitoring of response to medication Symptoms unstable Improve level of functioning

Follow-up: Days: Weeks: 2 Months: Other:

Extra Notes

on meds for diabetes, cholesterol, HTN but doesn't know what they are. Of note on sleep study would quit breathing 10 times a night, doesn't use C-Pap like he is suppose to because the noise bothers him> Thinks he is on 'memory medication- Aricept'

 Signed by: Jaime W. Koenig
Reason:
Date & Time: 22 Jun 2011

CLINICAL SERVICE NOTE

STAFF LIST

TIME: 0 For Staff: 1180 LARRY JACKSON

Facility	3D COLUMBIA AREA MHC	Cost Center	3DTAA CTU-10 MEDICAL PK-THE ASSESSMENT CENTER
Location	140 EMERGENCY INTAKE	Office	025 EMERGENCY & INTAKE SERVICES
Place Of Service:		Svc Code:	C39 GENERIC NOTE
Medicare Authorized Provider:	0	Group number: Sched CIS:	Group ID:
Staff ID:	1180	Date:	06/22/2011
	Batchno: 173118888	Time Service Provided:	11:54 AM

Name: RUSSELL GOODWIN	Cid: 9760806	Bill Time: 0	Pmttp: Modifier:
Cancel/NS:	Ticket:	Audit:	
GAF:	Incarc: N		
Problem:			
Emerg:			
Treatment Goal / Focus:			

Note

SEE PMA DATED 6/22/11
 RETURN FOR PMA ON 7/6/11 AT 10:45 AM. STAFF TO GIVE CLIENT ACS APPT. WITH CLYDE MORN AT 9:00 AM APPT.SLIP AT 7/6/11 PMA APPT. AT ES.

THIS IS PROVIDER'S INFORMATION ONLY
 FROM THE PATIENT'S MEDICAL RECORD
 IT SHALL BE KEPT CONFIDENTIAL &
 SHALL NOT BE DISCLOSED BY ANY PERSON
 EXCEPT UNDER THE CONDITIONS OUTLINED
 UNDER SECTION 44-22-100, AS AMENDED.

Larry R. Jackson, R.N. Signed by: Larry R. Jackson
 Reason:
 Date & Time: 22 Jun 2011

Svc Code: C39 GENERIC NOTE	Cancel/NS:	Bill Time: 0 NO CHARGE WAS NOT CHECKED
Ticket:	Audit:	Name: RUSSELL GOODWIN
	Cid: 9760806	

CLINICAL SERVICE NOTE

STAFF LIST

TIME: 40 For Staff: 0252 GEORGE SAUL

Facility	3D COLUMBIA AREA MHC	Cost Center	3DTAA CTU-10 MEDICAL PK-THE ASSESSMENT CENTER
Location	140 EMERGENCY INTAKE	Office	025 EMERGENCY & INTAKE SERVICES
Place Of Service:	53 COMMUNITY MHC	Svc Code:	H002 MH ASSESSMENT NON PHYSICIAN
	Batchno: 165118888	Group number: Sched CIS:	Group ID:
Medicare Authorized Provider:		Date:	06/14/2011
Staff ID:	0252	Time Service Provided:	09:15 AM

Name:	RUSSELL GOODWIN	Cid:	9760806	Bill Time:	30
Cancel/NS:		Ticket:	38060325	Audit:	2247126
GAF:	63	Incarc:	N	Pmttp:	04
Problem:	0 PSYCHIATRIC			Modifier:	
Emerg:	2 NORMAL HOURS, EMERGENCY				
Treatment Goal / Focus:					

Note

This former center client presented to emergency services to restart treatment. His case was closed after 10 years of treatment when he didn't follow through with a transfer from the ACS clinic to the LR clinic. He ran out of psychotropic medication 2 months ago. 'I can tell a difference...Worse than I was...Not feeling like myself...Tired...Aggravated.'

Casually dressed. Adequately groomed. Concrete. Poor historian. Lethargic. Slow to respond to questions. Flat affect. Mood appeared depressed. Had difficulty describing symptoms. Denied history of suicide attempts or current suicidal ideation. 'Sometimes I wish I was dead.' Preoccupied with inadequate sleep and fatigue. Appetite fluctuates. Endorsed sadness, tearfulness, anhedonia and social withdrawal. Past history of panic attacks and hallucinations.

Nkda. Medical problems reported diabetes and possibly hypertension and hyperlipodemia. Only physical health medication he could name was metformin. Takes tylenol 3 and otc sleep medications. Has a c-pap machine for his sleep apnea, His primary care md is Lilly Randolph with the Physicians Medical Group. Uds was negative this date. Quit smoking marijuana 1 year ago. Drinks alcohol on the weekends-up to 3 beers and 2 shots of liquor. Smokes 2-3 Black and Mild cigars daily. He has a high caffiene intake of coffee and energy drinks daily.

Impression: Major Depression, Recurrent.
 Plan: Scheduled pma appointment on 6-22-11. Reviewed afterhours emergency services. Will request pcmd records.

THIS IS PRIVLEDGE INFORMATION TAKEN FROM THE PATIENT'S MEDICAL RECORD. IT SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED BY ANYONE EXCEPT UNDER THE CONDITIONS OUTLINED UNDER SECTION 44-22-100, AS AMENDED.



George A. Saul LMSW

Signed by: George A. Saul
 Reason:
 Date & Time: 14 Jun 2011

Svc Code: H002 MH ASSESSMENT NON PHYSICIAN	Cancel/NS:	Bill Time: 30 NO CHARGE WAS NOT CHECKED
Ticket: 38060325	Audit: 2247126	Name: RUSSELL GOODWIN
	Cid: 9760806	

CLINICAL SERVICE NOTE

STAFF LIST

TIME: 15 For Staff: 1354 ALISON NORVILLE
 TIME: 15 For Staff: 0541 JAMIE KOENIG

Facility	3D COLUMBIA AREA MHC	Cost Center	3DTAA CTU-10 MEDICAL PK-THE ASSESSMENT CENTER
Location	140 EMERGENCY INTAKE	Office	025 EMERGENCY & INTAKE SERVICES
Place Of Service:	53 COMMUNITY MHC	Svc Code:	H017 03 MH SERVICES PLAN DEVELOPMENT BY NON PHYSICIAN
	Batchno: 94138888	Group number: Sched CIS:	Group ID:
Medicare Authorized Provider:	0541	Date:	04/04/2013
Staff ID:	1354	Time Service Provided:	11:15 AM

Name:	RUSSELL GOODWIN	Cid:	9760806	Bill Time:	15
Cancel/NS:		Ticket:	41164501	Audit:	2456210
GAF:	68	Incarc:	N	Pmttp:	03
				Modifier:	

Problem: 2 PSYCHIATRIC/SUBSTANCE
Emerg: 0 NORMAL HOURS, NO EMERGENCY
Treatment Goal / Focus:

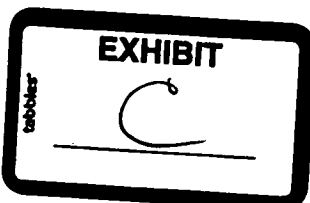
Note

Focus of Staffing and or Treatment Needs reviewed chart, recent medical diagnosis, sleep apnea that has been a long standing problem, THC hx and current use, caffeine dependence, reported symptoms and likelihood could be account for by medical problem. He is requesting Seroquel.

Physician Recommendations
 NO SEROQUEL! Needs medical follow up. Seroquel could stop his breathing. Seek medical treatment & flu emergency or referred.

Spoke with DR. Lillie Randolph who reports that he should have his new C-PAP machine for which he denied. She reports that he walked out of her office abruptly last month but she will call PRMH to confirm that they did in fact send him the C-PAP and she will follow up with him as well. She stated that he refuses to use the machine that she will no longer see him/

THIS IS PRIVLEDGE INFORMATION TAKEN FROM THE PATIENT'S MEDICAL RECORD. IT SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED BY ANY PERSON EXCEPT UNDER THE CONDITIONS OUTLINED UNDER SECTION 41.22-100, AS AMENDED.



Alison K. Norville Signed by: Alison K. Norville
 Reason:
 Date & Time: 04 Apr 2013 3:01:40 PM

Jaime W. Koenig Signed by: Jaime W. Koenig
 Reason:
 Date & Time: 04 Apr 2013 4:34:27 PM

The form has been signed 2 times. Reason:

Svc Code: H017 03 MH SERVICES PLAN DEVELOPMENT BY NON PHYSICIAN	Cancel/NS:	Bill Time: 15 NO CHARGE WAS NOT INDICATED
Ticket: 41164501	Audit: 2456210	Name: RUSSELL GOODWIN
Cid: 9760806		

CLINICAL SERVICE NOTE

STAFF LIST

TIME: 60 For Staff: 1354 ALISON NORVILLE

Facility	3D COLUMBIA AREA MHC	Cost Center	3DTAA CTU-10 MEDICAL PK-THE ASSESSMENT CENTER
Location	140 EMERGENCY INTAKE	Office	025 EMERGENCY & INTAKE SERVICES
Place Of Service:	53 COMMUNITY MHC	Svc Code:	H002 MH ASSESSMENT NON PHYSICIAN
	Batchno: 94138888	Group number: Sched CIS:	Group ID:
Medicare Authorized Provider:	0534	Date:	04/04/2013
Staff ID:	1354	Time Service Provided:	09:45 AM

Name: RUSSELL GOODWIN	Cid: 9760806	Bill Time: 60	
Cancel/NS:	Ticket: 41164014	Audit: 2456172	Pmttp: 05 Modifier:
GAF: 65	Incarc: N		
Problem: 2 PSYCHIATRIC/SUBSTANCE			
Emerg: 0 NORMAL HOURS, NO EMERGENCY			
Treatment Goal / Focus:			

Note

Ip is a 46 S B M who comes back to clinic following neck surgery and seeking disability. He reports odd sensation likely where muscle and nerves are healing but is convinced that they did the surgery wrong. After reviewing his old chart and the recent medical records indicating severe sleep apnea and an enlarged thyroid with lesions: writer with staff with Dr. Koenig and likely be referring him to his primary care physician Dr. Lillie Randolph. He reports that he has lost his old C-PAP machine, which is documented that he never used it despite a sleep study and his admission that he stopped breathing 10 times and that it is severe. He consumes massive amounts of caffeine and the visual and audio hallucinations could be from sleep deprivation.

It was reported in the beginning of his receiving treatment that he talks to people that are not there and was dx with MDD with psychotic features. He denies being intoxicated during those times that he recalled. He makes good eye contact, mood appears fair affect is congruent. When asked he does reports hearing a conversation last night that he could not make out and that he has seen shadows before.

No hospitalizations and there is no other documentation beside that one collateral report of evidence of hallucinations.

A&D hx of Alcohol, cannabis, and caffeine abuse +UDS+THC
He reports 20 oz cups coffee time 4 and a lot of sodas and 5-hr Energy drinks. He states that he is excessively tired.

He is A&O, pleasant, dressed appropriately for the weather, thoughts are linear and goal directed with occasional evidence of thought blocking that could form medical and or cannabis use.

He denies SI/HI, theme of conversation is critical of medical care. Spoke with Dr. Randolph and she did reports that he stormed out of her office very out of character and stated that he was going to find another MD. She reports that she did complete the form for his new C-PAP machine and suggested that she will not continue to see him if he is not using it: however she will contact PRMH to confirm that he had received it.

THIS IS PRIVILEGE INFORMATION TAKEN FROM THE PATIENT'S MEDICAL RECORD. IT SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO ANYONE EXCEPT UNDER THE COMPLETION OF A REQUEST UNDER SECTION 44-24100, AS AMENDED.

- 293.9 Mental Problem related to medical problem, thyroid, sleep apnea
- 296.30 MDD recurrent unspecified by hx
- 305.20 Cannabis Abuse uses 5 times a week
- 292.85 Caffeine induced sleep do
- 292.89 Caffeine-induced Anxiety DO by hx

referred to follow up with Dr. Randolph about his medical condition. Only to return medically stable and with MD referral.

Asking for Seroquel only. After staffing with psychiatrist, DR. Koenig explained that with that severe sleep apnea that Seroquel could kill him.

Do you have thoughts of killing yourself/hurting others or do you hear voices telling you to kill yourself / to hurt others?

NO

Alison Norville

Signed by: Alison K. Norville
Date & Time: 04 Apr 2013 2:19:45 PM

Svc Code: H002 MH ASSESSMENT NON PHYSICIAN	Cancel/NS:	Bill Time: 60 NO CHARGE WAS NOT INDICATED
Ticket: 41164014	Audit: 2456172	Name: RUSSELL GOODWIN
Cid: 9760806		

CLINICAL SERVICE NOTE

STAFF LIST

TIME: 15 For Staff: 0067 BRUCE CANNON

Facility	3D COLUMBIA AREA MHC	Cost Center	3DTAA CTU-10 MEDICAL PK-THE ASSESSMENT CENTER
Location	140 EMERGENCY INTAKE	Office	025 EMERGENCY & INTAKE SERVICES
Place Of Service:	53 COMMUNITY MHC	Svc Code:	C39 GENERIC NOTE
Medicare Authorized Provider:	0	Group number: Sched CIS:	Group ID:
Staff ID:	0067	Date:	04/05/2013
	Batchno: 95138888	Time Service Provided:	10:28 AM

Name: RUSSELL GOODWIN **Cid:** 9760806 **Bill Time:** 0
Cancel/NS: **Ticket:** **Audit:** **Pmttp: Modifier:**
GAF: N/A **Incarc:** N
Problem: 2 PSYCHIATRIC/SUBSTANCE
Emerg: 2 NORMAL HOURS, EMERGENCY
Treatment Goal / Focus:

Note

Received a phone call from client complaining that he 'wasn't seen properly' by Alison yesterday. Specifically alleging that she had made a decision about what medication he could have on her own. I informed him that I would review his record and talk with Alison and call him back.

After reviewing his record and talking with Alison, I called him back and informed him that our records clearly document that he indeed received a very proper evaluation....specifically that even without talking with Alison, the record from his visit yesterday clearly documents that he has several medical conditions, namely an enlarged thyroid with lesions for which he is not taking any medications; severe sleep apnea, for which he refuses to use a C-PAP; and severe caffeine dependence, that all make it dangerous for us to try to treat him. I informed him that in regard to his allegation that Alison had made a medication decision on her own, that it was clearly documented that she had in fact contacted his PCP, Dr. Randolph, and our psychiatrist, Dr. Koenig, in regard to her concerns about his medical conditions, and it was further documented that she had informed him of this, and that it was the physicians' recommendation that he should not be prescribed the medications he was seeking (Seroquel), because it could kill him.

He then tried to assert that there are other medications besides Seroquel that could be prescribed for him, but I explained to him that any medication we may prescribe that has a sedating effect could also kill him as easily as Seroquel. I stressed to him that we are taking this position, because we are trying to avoid doing anything that could kill him. I attempted to explain to him that it was further documented and explained to him that given his current medical condition, that we would not provide any treatment for him without a referral for consultation from his PCP, but he hung up on me before I could finish.

THIS IS PRIVILEGE INFORMATION TAKEN FROM THE PATIENT'S MEDICAL RECORD. IT SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED BY ANY PERSON EXCEPT UNDER THE CONDITIONS OUTLINED UNDER SECTION 44-22-100, AS AMENDED.

Signed by: Charles B. CANNON
Reason:
Date & Time: 05 Apr 2013 11:07:55 AM

Svc Code: C39 **GENERIC NOTE** **Cancel/NS:** **Bill Time:** 0 NO CHARGE WAS NOT INDICATED
Ticket: **Audit:** **Cid:** 9760806 **Name:** RUSSELL GOODWIN

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

SEP 02 2014

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

S.C. Court of Appeals

Avery B. Wilkerson, Jr., Commissioner;
Andrea C. Roche, Commissioner, and T. Scott Beck, Commissioner, concurring

S.C.W.C.C. Case No.: 1108188
Appellate Case No.: 2014-001676

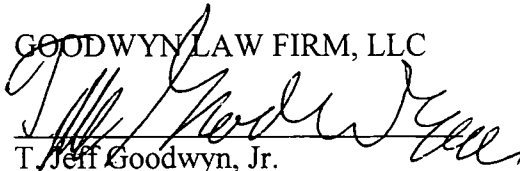
Russell GoodwinAppellant,

v.

Employbridge dba Prologistix, Employer, and American Casualty Company of
Reading PA, CarrierRespondents.

PROOF OF SERVICE

I certify that I have served the Appellant's Motion to File out of Time on Justin T. Williams, Esquire, Counsel for the Respondents at Willson, Jones, Carter & Baxley, P.A., 4500 Fort Jackson Blvd., Columbia, SC 29209 by depositing a copy of same in the United States Mail, postage prepaid, on September 2, 2014.

GOODWYN LAW FIRM, LLC

T. Jeff Goodwyn, Jr.
2519 Devine Street, Suite A
Columbia, South Carolina 29205
JGoodwyn@goodwynlaw.com
Attorneys for Appellant

September 2, 2014

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE CHARLESTON COLUMBIA CHARLOTTE RALEIGH ATLANTA

John Gabriel Coggiola
Direct (803) 227-2889
Fax (803) 782-2527
jgcoggiola@wjlaw.net

4500 Fort Jackson Boulevard
Columbia, SC 29209
www.wjclaw.net

August 11, 2014

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

Re: Russell Goodwin vs Employbridge dba Pro Drivers
Appellate Case No.: 2014-001676
WCC File No.: 1108188 DOI: 7/5/2011
Carrier: American Casualty Company of Reading PA - Claim No.: 001196006729WC01
WJC&B File No.: 0090.01185

Dear Ms. Kitchings:

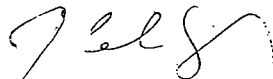
I, along with Justin T. Williams, represent Respondents Employbridge d/b/a Pro Drivers and American Casualty Company of Reading PA. I am in receipt of both Appellant's July 29, 2014 Notice of Appeal, and this court's August 6, 2014 correspondence assigning an appellate number to the case.

Please allow this letter to confirm that pursuant to Rule 203(b), Respondents object to Appellant's filing of a Notice of Appeal, since the Notice of Appeals was served over one month after the Appellant's 30 day deadline expired. As such, Respondents request that this Notice of Appeal be dismissed.

I appreciate your attention on this matter. If you have any questions or concerns, please do not hesitate to contact me.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



John Gabriel Coggiola

JGC/jgc
Enclosure(s)

cc: Ms. Adrian Bryant (via email)
T. Jeff Goodwyn, Jr., Esquire

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1108188

Russell Goodwin,

APPELLANT
CLAIMANT,

vs.

Employbridge dba Prologistix,

EMPLOYER,

AND

American Casualty Company of Reading PA,

CARRIER,
DEFENDANTS/RESPONDENTS

Appellate Panel Review held in Columbia, South Carolina,
on February 18, 2014 per notices timely and properly served
upon all parties of interest.

Appellate Panel Decision and Order filed

 MAY 20 , 2014

APPEARANCES:

Appellate Russell Goodwin, Claimant, of Eastover, South
Carolina, appeared Pro Se.

Defendants/RESPONDENTS represented by Justin T.
Williams, Esquire of Willson Jones Carter & Baxley, P.A. in
Columbia, South Carolina.

STATEMENT OF THE CASE

The parties were heard by Commissioner Aisha G. Taylor, on June 12, 2013, in Columbia, South Carolina. On July 15, 2013, Commissioner Taylor issued an Order from which Claimant appealed.

The Hearing Commissioner's Decision and Order set forth the following Findings of Fact:

1. Claimant was fully advised of his right to obtain counsel both during the pre-hearing conference and at the beginning of the hearing. Claimant advised the undersigned he had tried to obtain counsel on multiple occasions, but was unable to do so. Claimant elected to proceed pro se.

2. Claimant suffered an admitted injury by accident to his neck (back) within the course and scope of his employment with Employbridge dba Pro Drivers.

3. Claimant initially treated conservatively with Dr. LaMotta then surgery was recommended.

4. Defendants sent Claimant for an IME with Dr. Randall Drye who strongly advised against surgery. Dr. Drye placed Claimant at MMI with a 0% impairment rating. (Defendants' APA pp. 60-62).

5. Claimant returned to Dr. LaMotta and opted to proceed with surgery.

6. As a result of the injury to his back, Claimant ultimately underwent an anterior cervical discectomy and instrumented fusion at C6-C7. (Defendants' APA pp. 54-57).

7. On February 22, 2013, Dr. LaMotta completed a Form 14B which placed Claimant at maximum medical improvement as of September 27, 2012 with a 25% impairment rating to the whole person and a 71% impairment to the cervical spine. Dr. LaMotta issued Claimant permanent work restrictions to include no lifting over 50 pounds. Additionally, Dr. LaMotta opined Claimant would not need future medical treatment related to his work-related injury. (Defendants' APA pp.

53).

8. Defendants obtained an Employability Analysis and Labor Market Survey on May 21, 2013 from Jan Westmoreland of The Directions Group, which determined Claimant had sufficient transferrable skills necessary to find employment within his pre-injury earning capacity. This opinion was based on the medical records as well as Claimant's November 1, 2011 deposition testimony due to Claimant's refusal to meet in person to conduct the vocational evaluation. (Defendants' APA pp. 63-71).

9. Claimant testified at the hearing on his own behalf. Claimant was a very poor historian as it related to the condition of his neck injury. Instead the majority of Claimant's testimony focused on unrelated problems with his testicles, pain in his face and ears, headaches, throat problems, as well as concerns about the instrumentation used for his fusion based on internet print-outs concerning Medtronic litigation, which were admitted into evidence due to Claimant's pro se status. As it related to his neck; however, the claimant did testify he felt like the "device" in his neck was moving and that he now has two bulging disks.

10. I find Claimant's additional complaints of pain in other body parts as well as allegations that his instrumentation is moving and he has two bulging disks are unsupported by the medical evidence.

11. I find Claimant is at maximum medical improvement as of September 27, 2012 per Dr. LaMotta's Form 14B. See Gadson v. Mikasa Corp., 368 S.C. 214, 628 S.E.2d 262 (Cl. App. 2006).

12. Based on the evidence as a whole, I find the Claimant has sustained a 38% PPD to his back. This finding is based on the medical evidence and the evidence as a whole, including the Claimant's age, education, background, training, vocational evaluation and permanent work restrictions.

13. Claimant is not entitled to any additional medical treatment as none has been recommended by the authorized treating physician.

14. Claimant has an average weekly wage of \$336.83 yielding a compensation rate of \$224.55.

15. Claimant is awarded a lump sum payment.

16. I find Defendants are entitled to a credit for all temporary total disability benefits paid beyond the date of Dr. LaMotta's Form 14B Physician's statement dated February 22, 2013. I base this finding on the substantial gap between the date of MMI and Dr. LaMotta's Form 14B.

17. Although this matter was set on Defendants' Form 21, I find this hearing addressed all of Claimant's allegations in his Form 50 dated April 24, 2013 and that this Decision and Order represents a final adjudication of the April 22, 2013 Form 21 and the April 24, 2013 Form 50 at the Single Commissioner level.

In addition to the above stated Findings of Fact, the Hearing Commissioner's Decision and Order also set forth 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. Under § 42-1-160, Claimant did sustain an injury to his neck by accident arising out of and in the course and scope of his employment on July 5, 2011.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from July 5, 2011 until September 27, 2012, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until September 27, 2012, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical

treatment would tend to lessen the period of his disability.

5. Under § 42-9-30, Claimant has sustained 38% permanent partial disability to the neck. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since September 27, 2012.

Within the statutory period, Claimant, proceeding Pro Se, filed Form 30 Request for Commission Review on the case. Claimant did not present his grounds for appeal in the form of questions presented, but instead submitted the following written statement on a Form 59:

I (Claimant) think she (Commissioner Taylor) did not take the time to read my medical report. She did not read the report about the bulging disk until after the surgery. Dr. Drye told Dr. Lamotta that it would create more bulging disk and other problems Dr. Drye is a neurosurgeon. I feel that she did not apply any law, but friendship and political reason. She has overwhelming evidence and facts which I will attach to the paperwork. Read all the evidence start my pay back and get me help as soon as possible. Show evidence of all dr. appointments that was made after the surgery. To the workers comp commission, Dr. Lamotta said that he gave me a percentage on 9-27-12. As you can see the paperwork shows that I was in his office multiple times after that and he also stated that I had 8 more weeks before returning to work and waiting on they MRI. Since then I've had x-rays, MRIs and they all show collapsed disks has been seen by other doctors stating that I need more help but for some reason the commission believes doctor Lamotta but not the other doctors MRIs and x-rays and I want to know if I have all that and Dr. Drye's evidence that stated if I was to have the operation that more damage will cause. Please explain this to me Did the Commissioner tell you that someone stole all of my paperwork out of her files and erased it off the computer, stole my mental health records that I was going to for 8+ years. I told her that the Directional Group gave false information, as you can see there's nothing in there about my mental health condition. There was no investigation on how my paper work became missing. I had to scramble to get my paperwork back in time before my limit was up. I told here that the attorney said that they had the right commissioner in the seat I have other paperwork that show I do have to get surgery on my testicles. I have more evidence from other doctors that are saying my disks in my neck are pressing against my nerves and spinal cord that I will attach to the paperwork. (Signed by Russell Goodwin, Claimant, 10/3/13)

Copies of the above assignments of error were furnished to all parties prior to the oral arguments presented before the Appellate Panel on February 18, 2014.

Pursuant to S.C. Code Ann. § 42-17-50 (1985), the Appellate Panel reviewed the Award and weighed all the evidence in the record as presented at the initial hearing. The Panel also considered all issues raised in the briefs of Appellant and Respondents. The Panel makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. Claimant was fully advised of his right to obtain counsel both during the pre-hearing conference and at the beginning of the hearing. Claimant advised the undersigned he had tried to obtain counsel on multiple occasions, but was unable to do so. Claimant elected to proceed Pro Se.
2. Claimant suffered an admitted injury by accident to his neck (back) within the course and scope of his employment with Employbridge dba Pro Drivers.
3. Claimant initially treated conservatively with Dr. LaMotta then surgery was recommended.
4. Defendants sent Claimant for an IME with Dr. Randall Drye who strongly advised against surgery. Dr. Drye placed Claimant at MMI with a 0% impairment rating. (Defendants' APA pp. 60-62).
5. Claimant returned to Dr. LaMotta and opted to proceed with surgery.

6. As a result of the injury to his back, Claimant ultimately underwent an anterior cervical discectomy and instrumented fusion at C6-C7. (Defendants' APA pp. 54-57).

7. On February 22, 2013, Dr. LaMotta completed a Form 14B which placed Claimant at maximum medical improvement as of September 27, 2012 with a 25% impairment rating to the whole person and a 71% impairment to the cervical spine. Dr. LaMotta issued Claimant permanent work restrictions to include no lifting over 50 pounds. Additionally, Dr. LaMotta opined Claimant would not need future medical treatment related to his work-related injury. (Defendants' APA pp. 53).

8. Defendants obtained an Employability Analysis and Labor Market Survey on May 21, 2013 from Jan Westmoreland of The Directions Group, which determined Claimant had sufficient transferrable skills necessary to find employment within his pre-injury earning capacity. This opinion was based on the medical records as well as Claimant's November 1, 2011 deposition testimony due to Claimant's refusal to meet in person to conduct the vocational evaluation. (Defendants' APA pp. 63-71).

9. Claimant testified at the hearing on his own behalf. Claimant was a very poor historian as it related to the condition of his neck injury. Instead the majority of Claimant's testimony focused on unrelated problems with his testicles, pain in his face and ears, headaches, throat problems, as well as concerns about the instrumentation used for his fusion based on internet print-outs concerning Medtronic litigation, which were admitted into evidence due to Claimant's pro se status. As it related to his neck; however, the claimant did testify he felt like the "device" in his neck was moving and that he now has two bulging disks.

10. Claimant's additional complaints of pain in other body parts as well as allegations that his instrumentation is moving and he has two bulging disks are unsupported by the medical evidence.

2. Under § 42-1-160, Claimant did sustain an injury to his neck by accident arising out of and in the course and scope of his employment on July 5, 2011.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from July 5, 2011 until September 27, 2012, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until September 27, 2012, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical treatment would tend to lessen the period of his disability.

5. Under § 42-9-30, Claimant has sustained 38% permanent partial disability to the neck. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since September 27, 2012.

After careful review in the present case, the Appellate Panel of the South Carolina Workers' Compensation Commission has determined that the order of the Hearing Commissioner is hereby **AFFIRMED IN FULL**. The Findings of Fact and Conclusions of Law found in the Hearing Commissioner's Decision and Order, as specified above, are hereby **AFFIRMED IN FULL**.

{REMAINDER OF PAGE INTENTIONALLY LEFT BLANK}

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Single Commissioner from which this appeal has been taken is hereby **AFFIRMED IN FULL**.

IT IS SO ORDERED

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

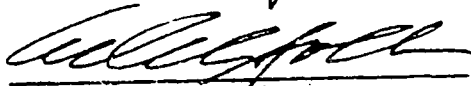


T. Scott Beck, Commissioner
For the Appellate Panel

CONCUR:



Avery B. Wilkerson, Commissioner



Andrea C. Roche, Commissioner

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 Kim Falls on May 20, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

AUG 01 2014

SC Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Avery B. Wilkerson, Jr., Commissioner;
Andrea C. Roche, Commissioner, and T. Scott Beck, Commissioner, concurring

S.C.W.C.C. Case No.: 1108188

Russell GoodwinAppellant,

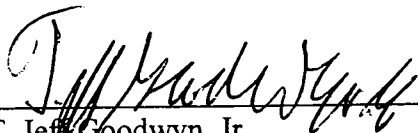
v.

Employbridge dba Prologistix, Employer, and American Casualty Company of
Reading PA, CarrierRespondents.

NOTICE OF APPEAL

The Plaintiff, Russell Goodwin, appeals the Order of the South Carolina Workers' Compensation Commission filed and served on May 20, 2014. Appellants received written notice of this entry of this Order on May 25, 2014. Counsel for Appellant was retained the date of the filing of this notice of appeal and is aware that the notice is being file more than 30 days after the receipt of the underlying order, but requests accommodations for Appellant under the Americans with Disabilities Act to allow for an extended filing period given the pro se Appellant's long running depression. Counsel is currently requesting Appellant's medical records to support this request for accommodations and will supplement this filing upon receipt of these records.

July 29, 2014



T. Jeff Goodwyn, Jr.
Goodwyn Law Firm, LLC
2519 Devine Street, Suite A
Columbia, South Carolina 29205
(803) 251-4517
Attorney for Appellant

Justin T. Williams, Esquire
Willson, Jones, Carter & Baxley, P.A.
4500 Fort Jackson Blvd.
Columbia, SC 29209
(803) 782-2520
Attorney for Respondents

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1108188

Russell Goodwin,

APPELLANT
CLAIMANT,

vs.

Employbridge dba Prologistix,

EMPLOYER,

AND

American Casualty Company of Reading PA,

CARRIER,
DEFENDANTS/RESPONDENTS

Appellate Panel Review held in Columbia, South Carolina,
on February 18, 2014 per notices timely and properly served
upon all parties of interest.

Appellate Panel Decision and Order filed
 MAY 20 , 2014

APPEARANCES:

Appellate Russell Goodwin, Claimant, of Eastover, South
Carolina, appeared Pro Se.

Defendants/RESPONDENTS represented by Justin T.
Williams, Esquire of Willson Jones Carter & Baxley, P.A. in
Columbia, South Carolina.

STATEMENT OF THE CASE

The parties were heard by Commissioner Aisha G. Taylor, on June 12, 2013, in Columbia, South Carolina. On July 15, 2013, Commissioner Taylor issued an Order from which Claimant appealed.

The Hearing Commissioner's Decision and Order set forth the following Findings of Fact:

1. Claimant was fully advised of his right to obtain counsel both during the pre-hearing conference and at the beginning of the hearing. Claimant advised the undersigned he had tried to obtain counsel on multiple occasions, but was unable to do so. Claimant elected to proceed pro se.

2. Claimant suffered an admitted injury by accident to his neck (back) within the course and scope of his employment with Employbridge dba Pro Drivers.

3. Claimant initially treated conservatively with Dr. LaMotta then surgery was recommended.

4. Defendants sent Claimant for an IME with Dr. Randall Drye who strongly advised against surgery. Dr. Drye placed Claimant at MMI with a 0% impairment rating. (Defendants' APA pp. 60-62).

5. Claimant returned to Dr. LaMotta and opted to proceed with surgery.

6. As a result of the injury to his back, Claimant ultimately underwent an anterior cervical discectomy and instrumented fusion at C6-C7. (Defendants' APA pp. 54-57).

7. On February 22, 2013, Dr. LaMotta completed a Form 14B which placed Claimant at maximum medical improvement as of September 27, 2012 with a 25% impairment rating to the whole person and a 71% impairment to the cervical spine. Dr. LaMotta issued Claimant permanent work restrictions to include no lifting over 50 pounds. Additionally, Dr. LaMotta opined Claimant would not need future medical treatment related to his work-related injury. (Defendants' APA pp.

53).

8. Defendants obtained an Employability Analysis and Labor Market Survey on May 21, 2013 from Jan Westmoreland of The Directions Group, which determined Claimant had sufficient transferrable skills necessary to find employment within his pre-injury earning capacity. This opinion was based on the medical records as well as Claimant's November 1, 2011 deposition testimony due to Claimant's refusal to meet in person to conduct the vocational evaluation. (Defendants' APA pp. 63-71).

9. Claimant testified at the hearing on his own behalf. Claimant was a very poor historian as it related to the condition of his neck injury. Instead the majority of Claimant's testimony focused on unrelated problems with his testicles, pain in his face and ears, headaches, throat problems, as well as concerns about the instrumentation used for his fusion based on internet print-outs concerning Medtronics litigation, which were admitted into evidence due to Claimant's pro se status. As it related to his neck; however, the claimant did testify he felt like the "device" in his neck was moving and that he now has two bulging disks.

10. I find Claimant's additional complaints of pain in other body parts as well as allegations that his instrumentation is moving and he has two bulging disks are unsupported by the medical evidence.

11. I find Claimant is at maximum medical improvement as of September 27, 2012 per Dr. LaMotta's Form 14B. See Gadson v. Mikasa Corp., 368 S.C. 214, 628 S.E.2d 262 (Cl. App. 2006).

12. Based on the evidence as a whole, I find the Claimant has sustained a 38% PPD to his back. This finding is based on the medical evidence and the evidence as a whole, including the Claimant's age, education, background, training, vocational evaluation and permanent work restrictions.

13. Claimant is not entitled to any additional medical treatment as none has been recommended by the authorized treating physician.

14. Claimant has an average weekly wage of \$336.83 yielding a compensation rate of \$224.55.

15. Claimant is awarded a lump sum payment.

16. I find Defendants are entitled to a credit for all temporary total disability benefits paid beyond the date of Dr. LaMotta's Form 14B Physician's statement dated February 22, 2013. I base this finding on the substantial gap between the date of MMI and Dr. LaMotta's Form 14B.

17. Although this matter was set on Defendants' Form 21, I find this hearing addressed all of Claimant's allegations in his Form 50 dated April 24, 2013 and that this Decision and Order represents a final adjudication of the April 22, 2013 Form 21 and the April 24, 2013 Form 50 at the Single Commissioner level.

In addition to the above stated Findings of Fact, the Hearing Commissioner's Decision and Order also set forth 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. Under § 42-1-160, Claimant did sustain an injury to his neck by accident arising out of and in the course and scope of his employment on July 5, 2011.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from July 5, 2011 until September 27, 2012, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until September 27, 2012, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical

treatment would tend to lessen the period of his disability.

5. Under § 42-9-30, Claimant has sustained 38% permanent partial disability to the neck. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since September 27, 2012.

Within the statutory period, Claimant, proceeding Pro Se, filed Form 30 Request for Commission Review on the case. Claimant did not present his grounds for appeal in the form of questions presented, but instead submitted the following written statement on a Form 59:

I (Claimant) think she (Commissioner Taylor) did not take the time to read my medical report. She did not read the report about the bulging disk until after the surgery. Dr. Drye told Dr. Lamotta that it would create more bulging disk and other problems Dr. Drye is a neurosurgeon. I feel that she did not apply any law, but friendship and political reason. She has overwhelming evidence and facts which I will attach to the paperwork. Read all the evidence start my pay back and get me help as soon as possible. Show evidence of all dr. appointments that was made after the surgery. To the workers comp commission, Dr. Lamotta said that he gave me a percentage on 9-27-12. As you can see the paperwork shows that I was in his office multiple times after that and he also stated that I had 8 more weeks before returning to work and waiting on they MRI. Since then I've had x-rays, MRIs and they all show collapsed disks has been seen by other doctors stating that I need more help but for some reason the commission believes doctor Lamotta but not the other doctors MRIs and x-rays and I want to know if I have all that and Dr. Drye's evidence that stated if I was to have the operation that more damage will cause. Please explain this to me Did the Commissioner tell you that someone stole all of my paperwork out of her files and erased it off the computer, stole my mental health records that I was going to for 8+ years. I told her that the Directional Group gave false information, as you can see there's nothing in there about my mental health condition. There was no investigation on how my paper work became missing. I had to scramble to get my paperwork back in time before my limit was up. I told here that the attorney said that they had the right commissioner in the seat I have other paperwork that show I do have to get surgery on my testicles. I have more evidence from other doctors that are saying my disks in my neck are pressing against my nerves and spinal cord that I will attach to the paperwork. (Signed by Russell Goodwin, Claimant, 10/3/13)

Copies of the above assignments of error were furnished to all parties prior to the oral arguments presented before the Appellate Panel on February 18, 2014.

Pursuant to S.C. Code Ann. § 42-17-50 (1985), the Appellate Panel reviewed the Award and weighed all the evidence in the record as presented at the initial hearing. The Panel also considered all issues raised in the briefs of Appellant and Respondents. The Panel makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. Claimant was fully advised of his right to obtain counsel both during the pre-hearing conference and at the beginning of the hearing. Claimant advised the undersigned he had tried to obtain counsel on multiple occasions, but was unable to do so. Claimant elected to proceed Pro Se.
2. Claimant suffered an admitted injury by accident to his neck (back) within the course and scope of his employment with Employbridge dba Pro Drivers.
3. Claimant initially treated conservatively with Dr. LaMotta then surgery was recommended.
4. Defendants sent Claimant for an IME with Dr. Randall Drye who strongly advised against surgery. Dr. Drye placed Claimant at MMI with a 0% impairment rating. (Defendants' APA pp. 60-62).
5. Claimant returned to Dr. LaMotta and opted to proceed with surgery.

6. As a result of the injury to his back, Claimant ultimately underwent an anterior cervical discectomy and instrumented fusion at C6-C7. (Defendants' APA pp. 54-57).

7. On February 22, 2013, Dr. LaMotta completed a Form 14B which placed Claimant at maximum medical improvement as of September 27, 2012 with a 25% impairment rating to the whole person and a 71% impairment to the cervical spine. Dr. LaMotta issued Claimant permanent work restrictions to include no lifting over 50 pounds. Additionally, Dr. LaMotta opined Claimant would not need future medical treatment related to his work-related injury. (Defendants' APA pp. 53).

8. Defendants obtained an Employability Analysis and Labor Market Survey on May 21, 2013 from Jan Westmoreland of The Directions Group, which determined Claimant had sufficient transferrable skills necessary to find employment within his pre-injury earning capacity. This opinion was based on the medical records as well as Claimant's November 1, 2011 deposition testimony due to Claimant's refusal to meet in person to conduct the vocational evaluation. (Defendants' APA pp. 63-71).

9. Claimant testified at the hearing on his own behalf. Claimant was a very poor historian as it related to the condition of his neck injury. Instead the majority of Claimant's testimony focused on unrelated problems with his testicles, pain in his face and ears, headaches, throat problems, as well as concerns about the instrumentation used for his fusion based on internet print-outs concerning Medtronic litigation, which were admitted into evidence due to Claimant's pro se status. As it related to his neck; however, the claimant did testify he felt like the "device" in his neck was moving and that he now has two bulging disks.

10. Claimant's additional complaints of pain in other body parts as well as allegations that his instrumentation is moving and he has two bulging disks are unsupported by the medical evidence.

11. Claimant is at maximum medical improvement as of September 27, 2012 per Dr. LaMotta's Form 14B. See Gadson v. Mikasa Corp., 368 S.C. 214, 628 S.E.2d 262 (Ct. App. 2006).

12. Based on the evidence as a whole, Claimant has sustained a 38% PPD to his back. This finding is based on the medical evidence and the evidence as a whole, including the Claimant's age, education, background, training, vocational evaluation and permanent work restrictions.

13. Claimant is not entitled to any additional medical treatment as none has been recommended by the authorized treating physician.

14. Claimant has an average weekly wage of \$336.83 yielding a compensation rate of \$224.55.

15. Claimant is awarded a lump sum payment.

16. Defendants are entitled to a credit for all temporary total disability benefits paid beyond the date of Dr. LaMotta's Form 14B Physician's statement dated February 22, 2013. I base this finding on the substantial gap between the date of MMI and Dr. LaMotta's Form 14B.

17. Although this matter was set on Defendants' Form 21, Commissioner Taylor addressed all of Claimant's allegations in his Form 50 dated April 24, 2013 and the Decision and Order represented a final adjudication of the April 22, 2013 Form 21 and the April 24, 2013 Form 50 at the Single Commissioner level.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS 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. Under § 42-1-160, Claimant did sustain an injury to his neck by accident arising out of and in the course and scope of his employment on July 5, 2011.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from July 5, 2011 until September 27, 2012, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until September 27, 2012, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical treatment would tend to lessen the period of his disability.

5. Under § 42-9-30, Claimant has sustained 38% permanent partial disability to the neck. From such award, Defendants are entitled to a credit for the overpayment of temporary total compensation since September 27, 2012.

After careful review in the present case, the Appellate Panel of the South Carolina Workers' Compensation Commission has determined that the order of the Hearing Commissioner is hereby **AFFIRMED IN FULL**. The Findings of Fact and Conclusions of Law found in the Hearing Commissioner's Decision and Order, as specified above, are hereby **AFFIRMED IN FULL**.

{REMAINDER OF PAGE INTENTIONALLY LEFT BLANK}

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Single Commissioner from which this appeal has been taken is hereby **AFFIRMED IN FULL**.

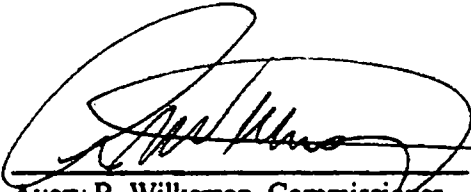
IT IS SO ORDERED

**SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**



T. Scott Beck, Commissioner
For the Appellate Panel

CONCUR:



Avery B. Wilkerson, Commissioner



Andrea C. Roche, Commissioner

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 Kim Falls on May 20, 2014

RECEIVED

AUG 01 2014

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

Avery B. Wilkerson, Jr., Commissioner;
Andrea C. Roche, Commissioner, and T. Scott Beck, Commissioner, concurring

S.C.W.C.C. Case No.: 1108188

Russell Goodwin,.....Appellant,

v.

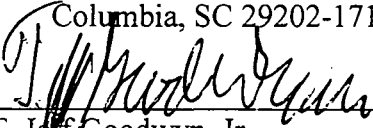
Employbridge dba Prologistix, Employer, and American Casualty Company of Reading PA,
Carrier,.....Respondents.

PROOF OF SERVICE

I certify that I have served the **Notice of Appeal** on Justin T. Williams, Esquire, Counsel for the Respondents at the address below by depositing a copy of same in the United States Mail, postage prepaid, on July 29, 2014.

Justin T. Williams, Esquire
Willson, Jones, Carter & Baxley, P.A.
4500 Fort Jackson Blvd.
Columbia, SC 29209

South Carolina Workers' Compensation
Commission
P.O. Box 1715
Columbia, SC 29202-1715


T. Jeff Goodwyn, Jr.
Goodwyn Law Firm, LLC
2519 Devine Street, Suite A
Columbia, South Carolina 29205
(803) 251-4517
(803) 251-4527 fax
JGoodwyn@goodwynlaw.com
Attorney for Appellant

July 29, 2014

RECEIVED
AUG 01 2014
SC Court of Appeals