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Carlos Kinlaw vs SCWCC

AUG 24 2015

Appellate Case No. 2015-001558

SC Court of Appeals

The purpose of this case is so that due process can be met by each court for the laws that they failed to follow to the exact course of law. For the following laws 67-1308, 67- 803,67- 613 and 67-801. Also 67-802

- 1) Commissioner Gene Mc Caskill and Brain O'Keefe fail to follow exact course of law of 67-613 in their orders of postponed leading to a due process violation of U.S. Constitution.
- 2) Commissioner Gene Mc Caskill fail to follow exact course of law on the following laws 67-1308, 67-803, and 67-801. Also the Appellate Panel made up Commissioner Avery B Wilkerson, Jr, Melody L James and Aisha Taylor fail to follow exact course of law in this case leading to a due process violation of U.S. Constitution.
- 3) Judge Carmen T Muller fail to follow procedural process to find out weather the state of South Carolina has fixed their 6th Amendment violation.

The main purpose of this complaint is to make sure the state courts give due process by following the law as it is write.

STATE OF SOUTH CAROLINA,)

COUNTY OF BEAUFORT)

Carlos Kinlaw)

Plaintiff,)

VS)

The State of South Carolina Workers Compensation)

Commission)

Defendant.)

) IN THE COURT OF COMMON PLEAS

) CIVIL ACTION COMPLAINT

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SC Court of Appeals

This is 6th and 14th amendment violation case not conspiracy case now.

The State of South Carolina Worker Compensation Commission violation my 14th Amendment right in a workers compensation case. Commissioner Gene McCaskill postponed a hearing January 9, 2013 and it was to happen on February 28, 2013 but the attorney Brian O'Keefe postponed it on February 13, 2013. The commissioner did the hearing on April 23, 2013 which broke this law 67-613 which is also a clear violation of my 6th and 14th amendment right to a fair trial, improper venue and due process violations because he did not have the judicial authority to hold the hearing and reset the case that power is given to the South Carolina Workers' Compensation Commission Judicial Department. Both Commissioner Gene McCaskill and Brian O'Keefe circumvent law 67-613 by not letting the case go to a general file after 30 days which is required by the law to give due process. Appellate panel made up of Commissioners Avery B. Wilkerson, Jr, Melody L James, Aisha Taylor and Erin Hantske Esq. did a conspiracy to aid in a 6th and 14th amendment right violation in their decision because they could see in the paper work for the case all the postponements in the file and did not act to give a fair trial or due process.

In Beaufort, South Carolina, In The Court Of Common Pleas Fourteenth Judicial Circuit in the County of Beaufort South Carolina a civil lawsuit was heard on August 7, 2014 at 2:00pm Carlos Kinlaw and God Sent Transport LLC vs Workers Compensation Commission of South Carolina, Case No 2014CPo701142 before Judge Carmen T Mullen over a 6th Amendment violation by the state, where Keith Robert, Esq. appeared of the defendant in the hearing. I told the Judge Mullen in the hearing and on the paper work that my 6th Amendment right was violated by the state. Mr. Robert said in that hearing that the state had clear up the 6th Amendment problem when they had not did it at all. Mr Robert hide the fact that Workers Compensation Commission of South Carolina had planned a conspiracy with the lawerys and commissioners to violated my 6th and 14th amendments rights through a workers compensation hearing. Judge Carmen T Mullen did not go through bill of right to find out what amendment was broke by the state. She had not allow me to proceed in forma pauperis for my case she would not move the case forward unless I paid for it. This conspiracy could not have been pull off without the Governor Nikki R Haley knowing about it because of the civil lawsuit in The Court of Common Pleas and Workers Compensation Commission of South Carolina is ran by the Governor office.

This is 6th and 14th amendment violation case not conspiracy case now. I am asking for damages of \$5,000,000.

Carlos Kinlaw

67-801. Settlement of the Claim, General.

A. After the claimant reaches maximum medical improvement the parties may agree to settle the claim by signing a Form 16 or Form 16A, Agreement for Permanent Disability/Disfigurement Compensation, or by signing an Agreement and Final Release (clincher).

B. If each party is represented by an attorney, an appearance before a Commissioner is not required for approval of a settlement unless either party requests an informal conference, or the Commissioner schedules a hearing.

C. If the claimant is not represented by an attorney, the parties must appear before the Commissioner assigned to the claim at an informal conference for approval of the settlement. At the informal conference, the Commissioner will review the proposed settlement and may approve it if the Commissioner finds the settlement fairly made and in accordance with the provisions of the Act.

D. A Form 16 or Form 16A retains the claimant's right to request a hearing according to R.67-207 for additional benefits not later than one year from the date of the last compensation payment. By signing the Form 16 or Form 16A, the employer's representative does not agree it will make any additional payments in the future unless the form specifically provides otherwise.

E. An Agreement and Final Release (clincher) relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses, unless the Agreement and Final Release specifically provides otherwise. When the claimant signs the Agreement and Final Release and it is approved, the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document.

F. An official copy of the settlement is approved and certified by the Commission as binding.

HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997; State Register Volume 34, Issue No. 2, eff February 26, 2010.

67-802. Settlement, Form 16, Form 16A.

A. If parties agree to the terms of a Form 16 or Form 16A, the employer's representative completes a Form 16 or Form 16A by recording the claimant's compensation rate, the percent of disability agreed upon, disfigurement, if any, and the number of weeks of compensation the claimant will receive. The form may be approved as follows:

(1) If the claimant is not represented by an attorney, the Form 16 or Form 16A must be approved at an informal conference.

(a) The employer's representative must request an informal conference by filing an updated Form 18 showing the status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007 a Form 14B is also required. The claimant may request an informal conference by writing to the Judicial Department.

(b) If the parties reach an agreement at the informal conference which the Commissioner approves, or the claims mediator recommends, the parties sign the agreement. (A Commissioner must approve a claims mediator's recommendation before the settlement is recorded as binding.)

(c) If the parties do not reach an agreement with which the Commissioner approves the Commission will set a hearing according to R.67-804I.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the employer's representative sign the Form 16 or Form 16A. The Form 16 or Form 16A may then be filed with the Commission for approval without an appearance before a Commissioner, as follows:

(a) The employer's representative files an original and one copy of the Form 16 or Form 16A with the Commission's Claims Department. The employer's representative shall file the Form 14B with the Form 16A for claims arising after July 1, 2007.

(b) A Commissioner reviews the Form and may approve the Form.

(c) If the Commissioner signs the Form approving it, the Claims Department records the settlement and returns an approved copy of the Form to the employer's representative.

(d) The employer's representative must provide the claimant a copy of the approved Form 16 or Form 16A.

(3) If the claimant is represented by an attorney, and the employer is represented by an attorney, a Form 16 or a Form 16A shall be filed with the Commission.

(a) The attorney for the employer's representative files an original and one copy of the Form 16 with the Commission's Claims Department. A Commissioner reviews the Form and may approve the Form.

(b) The attorney for the employer's representative files an original and one copy of the Form 16A with the Commission's Claims Department.

(c) The Commission's Claims Department reviews and records the settlement and returns an official copy of the Form to the attorney for the employer's representative.

B. The Commissioner may schedule an informal conference to discuss the terms of the settlement when necessary.

HISTORY: Amended by State Register Volume 20, Issue No. 5, eff May 24, 1996; State Register Volume 34, Issue No. 2, eff February 26, 2010.

67-803. Settlement by Agreement and Final Release.

A. If the parties agree to the terms of a settlement by entering into an Agreement and Final Release, the document shall include the following:

(1) The caption of the claim;

- (2) A statement of the facts at issue;
- (3) The date and nature of the alleged injury coinciding with the date and nature of each injury on the Form 12A, Form 50, or Form 52;
- (4) The amount of the settlement and terms of payment; and
- (5) The signature of the claimant, his or her attorney, if any, and the attorney for the employer's representative.

B. An Agreement and Final Release shall be approved as follows:

(1) If the claimant is not represented by an attorney, the Agreement and Final Release must be approved at an informal conference.

(a) The employer's representative must request an informal conference by filing an updated Form 18 showing status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007 a Form 14B is also required. The claimant may request an informal conference by writing to the Judicial Department.

(b) The attorney for the employer's representative and the claimant attend the informal conference. If the parties reach an agreement at the informal conference that the Commissioner approves, the Agreement and Final Release is signed by the claimant, the attorney for the employer's representative, and the Commissioner.

(c) The attorney for the employer's representative must provide the original and two copies of the Agreement and Final Release to the Commissioner at the informal conference. The Commission returns an official copy to the attorney for the employer's representative, and the attorney for the employer's representative shall provide the claimant a copy of the official Agreement and Final Release.

(d) If the Commissioner does not approve the Agreement and Final Release, the Agreement and Final Release is neither approved nor binding. The Commission will set the claim for hearing according to R.67-8041.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the attorney for the employer's representative sign the Agreement and Final Release. The Agreement and Final Release shall be filed with the Claims Department.

(a) The attorney for the employer's representative files the original and two copies of the proposed Agreement and Final Release with the Claims Department.

(b) An official copy of the Agreement and Final Release is returned to the attorney for the employer's representative.

(c) The employer's representative shall provide the claimant an official copy of the Agreement.

C. The Commission shall not approve an Agreement and Final Release that is not fairly made and in accordance with the Act. An approved Agreement and Final Release is binding. The employer's representative shall pay compensation according to its terms.

HISTORY: Amended by State Register Volume 20, Issue No. 5, eff May 24, 1996; State Register Volume 24, Iss



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3.16.11

ATTORNEYS AT LAW

Reply To
BRIAN O'KEEFE
Direct Dial: (843) 576-2780
bokesfe@mgelaw.com
CHARLESTON

March 15, 2011

VIA FACSIMILE AND MAIL

Fletcher M. Johnson, Esquire
Law Office of Fletcher M. Johnson, LLC
Post Office Box 2479
Bluffton, South Carolina 29910

RE: Carlos Kinlaw v. Lowe's Home Centers, Inc. and Sedgwick CMS
Date of Accident: October 13, 2009
WCC File No.: 0917941
Our File No.: 2073.11006
Claim No.: YKH25195C

Dear Fletcher:

It has come to my attention that the injured worker has refused to sign the Resignation and Release. You and the insurance carrier negotiated a settlement in this claim to include the Clincher Agreement along with a Resignation and Release. Therefore, the settlement negotiations have failed under these terms and I will be filing for a hearing request.

You have a check in the amount of \$24,500.00 that should be in your trust account for this claim. Please return the \$24,500.00 to my attention and make the check payable to Sedgwick CMS c/o Lowe's. I expect the return of this check in the next five business days.

Very truly yours,

Brian O'Keefe

BGO/srm

cc: Jennifer Taylor, Sedgwick CMS (via facsimile and mail)

NONMON. LETTER TEXT SSN.: ~~XXXXXXXXXX~~ 0 NAME: CARLOS KINLAW
YOU RECEIVED AN ON-THE-JOB INJURY WHILE WORKING WITH YOUR MOST RECENT BONA
FIDE EMPLOYER. YOU WERE NOT ALLOWED TO RETURN TO THE JOB. THEREFORE, A
FINDING OF DISCHARGE FOR CAUSE IS NOT JUSTIFIED UNDER THE SOUTH CAROLINA
CODE, SECTION 41-35-120(2).

ADDITIONAL INFORMATION WAS REQUESTED FROM EMPLOYER BUT NOT RECEIVED IN THE
TIME ALLOWED BY THE LOCAL OFFICE.

NO MORE LETTERS FOLLOW

STAT NO.: 2500

ISS DATE: 070711

TRANSACTION OPTION:

EFFECT DTE: 052211

RES CDE: 01



South Carolina Community Commission
601 North Main Street
P.O. Box 1077
Ridgeland, S.C. 29928

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
JUDICIAL CONFERENCE DECISION AND ORDER

Carlos Kinlaw v. Lowe's Home Centers, Inc.
SCWCC: 1105654
Commissioner: McCaskill

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference. The Commissioners considered the matter and ordered the matter handled in the following manner:

IT IS, THEREFORE, ORDERED the pending appeal of the Administrative Order of the Commission is hereby;

Dismissed as Interlocutory. Set for Oral Argument.

IT IS, THEREFORE, ORDERED the pending **MOTION FOR FRAUD** filed **November 8th, 2013**, be, and hereby is;

Granted. Denied. Dismissed Set for Hearing.

BEFORE THE;

Hearing Comm. Jurisdictional Comm. Full Commission.

IT IS, THEREFORE, ORDERED this matter be, and hereby is; remanded to take such action and enter an Order consistent with the Court's directive.

Remand to Panel as indicated below.

Barden James Taylor
 Beck Roche Wilkerson
 McCaskill

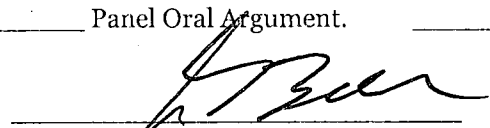
Remand for Order consistent with the Order of the Court.

Remand to the Hearing Commissioner.
 Remand to the Jurisdictional Commissioner.

Other: _____

Remand: Panel Oral Argument. En Banc Oral Argument.

AND IT IS SO ORDERED.



T. Scott Beck, Chair

Columbia, South Carolina

11/17 2013

CONCURRING:

Commissioner Susan S. Barden
Commissioner Melody James
Commissioner Aisha Taylor
Commissioner Avery Wilkerson
Commissioner Andrea C. Roche
Commissioner Gene McCaskill

NOT PARTICIPATING:

DISSENTING:

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THE UNDERSIGNED HAS THIS DATE SERVED THIS ORDER IN THE ABOVE ENTITLED ACTION UPON ALL PARTIES ELECTRONICALLY OR BY DEPOSITING A COPY HEREOF, POSTAGE PAID, IN THE UNITED STATES MAIL

This 18 day of November, 2013.

By: Valerie D. Acker

Carlos Kinlaw
Erin L. Hantske
SCWCC Judicial Department

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 1105654
Carrier File #: B162503336000101625
December 20, 2013

NOTICE OF HEARING

CARLOS R KINLAW
PO Box 403
Bluffton, SC 29910

CARLOS R KINLAW v. LOWE'S HOME CENTERS, INC

Subject: To determine the issues in the Motion.
Date: January 8, 2014 at 10:30 AM
Location: City of Beaufort Municipal Court, 1901 Boundary Street, Courtroom
Beaufort, SC 29902

South Carolina Regulations 67-601 through 67-615 govern hearings before the South Carolina Workers' Compensation Commission. The claimant must attend when not represented by an attorney or when disfigurement is involved. Corporations must be represented by an attorney, and uninsured employers must attend.

Attorneys must file a Form 58 with proof of service pursuant to Regulation 67-611. Postponements are only granted pursuant to Regulation 67-613. Please visit www.wcc.sc.gov/Commissioners to view Commissioners' Preferences. If you have questions regarding this matter, please contact the office of the undersigned Jurisdictional Commissioner.

Commissioner Gene McCaskill
803-737-5663, klindler@wcc.sc.gov

CERTIFICATE OF SERVICE – This is to certify the undersigned has served this notice in the above entitled action upon all parties to this cause by sending a copy hereof by electronic mail or United States mail.

By: Kellie C Lindler, SC Workers' Compensation, December 20, 2013

Party

Attorney

Employee: CARLOS R KINLAW
PO Box 403
Bluffton, SC 29910

Employer: LOWE'S HOME CENTERS, INC
Carrier: Lowe's Companies, Inc.

Erin L. Hantske
erin.hantske@mgclaw.com
843-576-2946

Kinlaw
403
in, SC 29910



The South Carolina Court of Appeals
Post office Box 11629
Columbia, SC ~~29901~~ 29911

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SC Court of Appeals



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