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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

WCC NO. 1320600

RECEIVED

FEB 01 2016

SC Court of Appeals

Kevin M. Todd Respondents

vs.

Michael Roberts d/b/a Michael Roberts Home Repair
and S.C. Uninsured Employers' Fund. Respondents

NOTICE OF APPEAL

The Appellant, Kevin M. Todd, appeals the Decision and Order of the Appellate Panel of the South Carolina Workers' Compensation Commission filed January 12, 2016 and received by Appellant on January 12, 2016. The grounds for appeal are as follows:

1. The Order of the Full Commission erred in finding the Claimant was engaged in a personal venture with his Employer when the Claimant was directed by the Employer to work on the boat which exploded severely injuring the Claimant during a normal workday.
2. The Full Commission of the South Carolina Workers' Compensation Commission erred in affirming the Single Commissioner's ruling found in Finding of Fact No. 10 which states: "For me to believe the Claimant, I have to believe that all the times he spent with the Defendant/Employer was time for which he was paid. That conclusion is simply not supported by the facts." The error being that the Employee was performing the work during normal business hours at the direction of the Employer.
3. The Full Commission of the South Carolina Workers' Compensation Commission erred in holding that the Employee could only be on the job if worked in the home repair service when in fact the evidence shows that he was ordered by the Employer to do other tasks for the Employer and his family.

4. The Full Commission of the South Carolina Workers' Compensation Commission erred in finding that because the Employer owned the boat personally that the Claimant was not on the job at the time of the explosion which severely injured him.
5. The Full Commission of the South Carolina Workers' Compensation Commission erred in finding that the case comes down as to who and what to believe. The error being all the evidence points to only one conclusion -- that the Claimant was in the Employer's vehicle and that he was told by the Employer that they were going to fix a boat the Employer owned and that it was during working hours and he was injured in the course and scope of employment.
6. The Full Commission of the South Carolina Workers' Compensation Commission erred in not finding that the Claimant had been directed by his Employer to go on a personal errand consistent with *Hicks v. Piedmont Cold Storage Inc.* 324 S.C. 628, 479 S.E.2d 831 (Ct.App. 1996)(reversed on other grounds, 335 S.C. 46, 515 S.E.2d 532 (1999).
7. The Full Commission of the South Carolina Workers' Compensation Commission erred as a matter of law in not finding based on the facts that this was a private errand directed by the Employer.
8. The Full Commission of the South Carolina Workers' Compensation Commission erred in finding that the Employee was not in the course and scope of employment when the accident happened on a normal workday (Friday) during normal working hours (about 9 o'clock in the morning when the accident occurred).
9. The Full Commission of the South Carolina Workers' Compensation Commission erred in not applying the rule recognized by the South Carolina Supreme Court in *Howell v. Cash & Karry*, 264 S.C. 298, 214 S.E.2d 821 (1975) which states as follows:

An act outside an employee's regular duties which is undertaken in good faith to advance the employer's interest, whether or not the employee's own assigned work is thereby furthered, is within the course of employment. 214 S.E.2d at 822 (quoting 1A. Larson, Law of Workers' Compensation, Section 27.00); see also *Lomax v. City of Greenville*, 225 S.C. 289, 82 S.E.2d 191 (1954).

10. The Full Commission of the South Carolina Workers' Compensation Commission erred in holding that the Claimant had not established by a preponderance of the evidence that he was entitled to an award under the South Carolina Workers' Compensation Act. The error being all the facts show that the Claimant was entitled to an award because he was working on a normal workday (Friday, August 9, 2013) during normal work hours (the morning) and Claimant/Employee was directed by his Employer to go to a boat owned by the Employer and work on it during which time an explosion occurred Employee suffered severe burns as a result therein.

KELAHER, CONNELL & CONNOR, P.A.



Gene M. Connell, Jr. (S.C. Bar No. 1358)
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net
Attorney for Appellant

January 28, 2016
Surfside Beach, South Carolina

Other Counsel of Record:
Lisa C. Glover
(S.C. Bar No. 64209)
South Carolina State Accident Fund
P. O. Box 210039
Columbia, SC 29221
803-896-5898
lglover@saf.sc.gov
Attorney for Respondents

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PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a **Notice of Appeal** on the Respondents, through counsel of record, and on the South Carolina Workers' Compensation Commission, by depositing a copy of same in the United States Mail, postage prepaid, to:

Lisa C. Glover, Esquire
South Carolina Uninsured Employers' Fund
Post Office Box 210039
Columbia, SC 29221

Amy Bracy
Judicial Director
S. C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

Via Certified Mail

Mike Roberts
d/b/a Mike Roberts Home Repair
3334 New Road
Conway, SC 29527

DATE OF MAILING: January 28, 2016

Shelia Y. McCumbee
Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 28th day of January, 2016.

John C. Bell
Notary Public for South Carolina
My Commission Expires: 2-17-19

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

1500 U.S. HIGHWAY 17 NORTH

P.O. DRAWER 14547

SURFSIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER*
GENE M. CONNELL, JR.
L. SIDNEY CONNOR, IV
LISA POE DAVIS

* OF COUNSEL

AREA CODE 843
238-5648
FAX: 238-5050

January 28, 2016

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SC Court of Appeals

The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: *Kevin M. Todd v. Michael Roberts d/b/a Michael Roberts Home Repair and
S.C. Uninsured Employers' Fund*
W.C.C. File No. 1320600
Our File No. 2014-0046C

Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above-captioned case. Also enclosed are the following:

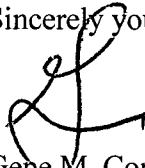
1. Proof of Service of the Notice of Appeal on the Respondents.
2. Copy of the Order which is to be challenged on Appeal.
2. Our check for the \$100.00 filing fee.

Please return a clocked copy to us in the self-addressed, stamped envelope provided.

By copy of this letter, I hereby serve the Respondents and the South Carolina Workers' Compensation Commission with the Notice of Appeal.

Thank you for your kind assistance in this matter.

Sincerely yours,



Gene M. Connell, Jr.

GMC,Jr.:sm

Enclosures

cc w/enc.: Lisa C. Glover, Esquire
cc w/enc.: Amy Bracy, Judicial Director, S. C. Workers' Compensation Commission
cc w/enc.: Mike Roberts d/b/a Mike Roberts Home Repair w/enclosures