

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAY 19 2016
SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No. 1116275

John McDaniel, Employee,.....Appellant,

v.

Career Employment Professional
d/b/a Snelling Staffing, Employer, and
United Wisconsin Insurance Co., Carrier, Respondents.

**RESPONDENTS' RETURN IN OPPOSITION TO
MOTION FOR ORAL ARGUMENT**

Pursuant to Rules 215 and 240, SCACR, Respondents Career Employment Professional d/b/a Snelling Staffing and United Wisconsin Insurance Co. oppose Appellant's Motion for Oral Argument ("Motion"). First, it is unclear whether Appellant submitted the required \$25.00 filing fee with his Motion. Second, this Court, having before it the Briefs and Record, already has determined oral argument would not aid it in resolving the issues, and Appellant has not raised any compelling reason why this Court should reverse that decision.

Although Appellant has enumerated 16 issues, many of his issues are duplicative and overlap. Appellant's issues boil down to the six main argument headings set forth in Respondents' Brief. Characterizing arguments as due process violations does not automatically deem an appeal in need of oral argument. Specifically, Appellant argues in

his Motion that his due process rights were violated when, at the July 8, 2013 remand hearing, Commissioner James explained to him that she could not take any additional evidence because: 1) the Full Commission had remanded to her to decide one specific and limited issue, and 2) all of his outstanding motions for new evidence had been addressed. (R. p. 359). As explained in more detail in Respondents' Brief, Commissioner James heard argument and ruled on Appellant's various motions to admit additional evidence and/or enforce subpoenas. (R. p. 310, line 11 – p. 329, line 9) (R. p. 339, line 8 – p. 342, line 6) (*see also* R. pp. 20-21). Commissioner James's September Hearing Commissioner Decision on remand, (R. pp. 23-27), setting forth her ruling on those issues, was not effectively appealed. (R. pp. 503-504; Commission Decision, R. p. 33). An unappealed single commissioner decision is the law of the case regarding the issues decided therein. *See Green v. City of Columbia*, 311 S.C. 78, 80, 427 S.E.2d 685, 687 (Ct. App. 1993), *citing Ham v. Mullins Lumber Co.*, 193 S.C. 66, 7 S.E.2d 712 (1940).

Furthermore, Appellant has had his chance to respond and present evidence on all issues involved pursuant to S.C. Code Ann. § 1-23-320(E). Appellant was not only allowed a full and fair opportunity to present all the relevant evidence and testimony at the initial November 28, 2012 hearing before Commissioner James, he was obligated to do so pursuant to the Commission's regulations. *See* S.C. Code Reg. § 67-613. Appellant was represented by counsel at that hearing. (R. pp. 256-311). His subsequent attempts to submit evidence after the close of that hearing were properly denied.

As explained in more detail in Respondents' Brief, Appellant's reliance on Adams v. H.R. Allen, Inc., 397 S.C. 652, 726 S.E.2d 9 (Ct. App. 2012), is misplaced. That case

is factually distinguishable and there has been no violation of Appellant's due process rights here. He has had no less than three full hearings at the Commission level, (R. pp. 256-311; R. pp. 312-367; R. pp. 368-393), and was allowed to submit whatever evidence he wanted to enter into the record at the initial Single Commissioner hearing – like every other party before the Commission.

Finally, Appellant appears to suggest that his opportunity to present his argument via his pleadings to this Court was somehow limited. While there are pagination limitations on briefs, Rule 208(b)(5), SCACR, neither of Appellant's briefs came close to exceeding those limits. The Record in this appeal is over 867 pages long. Appellant has had ample and adequate opportunity to present his case at every step of the process.

There is no reason for this Court to hear oral argument and Appellant's Motion should be denied.

CONCLUSION

For the reasons stated herein, this Court should deny Appellant's Motion for Oral Argument.

McANGUS GOUDELOCK & COURIE, L.L.C.

May 17, 2016



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PROOF OF SERVICE

I certify that on the 17th day of May, 2016, I served the **Respondents' Return in Opposition to Motion for Oral Argument** on John McDaniel by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

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Charleston, SC 29412



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mgc

Reply To

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SC Court of Appeals

Via U.S. Mail

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

RE: John McDaniel v. Career Employment Professionals d/b/a Snelling Staffing
Services and United Wisconsin Insurance Company c/o United Heartland
Date of Accident: November 21, 2011
WCC File No.: 1116275
Our File No.: 20638.12027
Claim No.: 041100021048
Appellate Tracking No.: 2014-000186

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Return in Opposition to Motion for Oral Argument, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the self-addressed, stamped envelope.

If you have any questions, please do not hesitate to contact me.

Yours truly,
McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: John C. McDaniel, *pro se*



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DEFENSE**

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