

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Casey L. Manning, Circuit Court Judge

Case No. 2016-001382

Clarence B. Jenkins Jr,

Appellant,

v.

South Carolina Worker's
Compensation
Commission,

Respondent.

[INITIAL] BRIEF OF APPELLANT

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Attorney for Appellant

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SC Court of Appeals

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STATEMENT OF ISSUES ON APPEAL

1. DID TRIAL COURT ERR WHEN DISMISSING CASE DUE TO PERTINENT MEDICAL DOCUMENTATIONS SUBMITTED TO THE COURT BY SEVERAL MOTIONS AS VERIFICATION OF FACTS.
2. DID THE TRIAL COURT ERR IN DISMISSING CASE WHEN S.C. CODE ANN. 15-77-50 GIVES JURISDICTION OVER COMMISSIONS WHEN AN EGREGIOUS ERROR HAS BEEN COMMITTED BY AN EMPLOYEE REGARDING R67-611.
3. DID THE TRIAL COURT ERR IN DISMISSING CASE WHEN SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION VIOLATED THEIR OWN POLICY OF REQUIRING FORM 14B BY THE EMPLOYER.
4. APPELLANT WAS NOT AFFORDED ALTERNATIVE DISPUTE RESOLUTION AS REQUIRED FOR ALL CIVIL CASES BY ORDER OF THE SUPREME COURT OF SOUTH CAROLINA THEREFORE A VIOLATION OF THE LAW S.C. CODE 15-79-105 (C) AND ALTERNATIVE RESOLUTION DISPUTE RULE 3.

STATEMENT OF THE CASE

On February 10, 2013, Appellant sustained a work injury while working in the Vendor Returns at Amazon Fulfillment Center in West Columbia, SC. Appellant has been classified as having a disability because of a head injury which has negatively affected other parts of the body which required medical care. Appellant reported affected injuries and medical providers on the form 50 which is required by South Carolina Worker's Compensation Commission. Appellant has never received appropriate worker's compensation benefits due to South Carolina Worker's Compensation Commission violating their own laws of Regulatory Advisory Form 14B, South Carolina Worker's Compensation Commission Law R67-611 and S.C. Code Ann. 42-9-10.

By Commissioner Michael Campbell II egregious error of R67-611 failure to allow Appellant to submit pertinent medical records and supportive documents therefore prevented a proper defense on May 21, 2015. Commissioner Michael Campbell II left the bench on May 21, 2015 to research the law which is confirmed by transcript stating that Appellant must submit a pre-legal brief which is an egregious error of R67-611. South Carolina Worker's Compensation Commission requires a medical rating and release by assigned worker's compensation doctor to

conclude a worker's compensation claim when self represented claimant. The assigned worker's compensation doctor, Dr. Mahmoud Abu-Ata has not provided a medical rating and medical release to Amazon.Com DEDC, LLC, employer and American Zurich Ins., carrier which is required by South Carolina Worker's Compensation Commission. South Carolina Worker's Compensation Commission failure to required that Amazon.Com DEDC, LLC, employer and American Zurich Ins., carrier

pay worker's compensation benefits as required by the law showed a bias and prejudice towards Respondent. South Carolina Worker's Compensation Commission violated their policy and procedures when compensation benefits was not being paid as Amazon.Com DEDC, LLC, employer and American Zurich Ins., carrier refused to allow Appellant to enter worksite because of Dr. Mahmoud Abu-Ata medical diagnosis and work restrictions on February 19, 2014. South Carolina Worker's Compensation Commission allows Respondent to distort medical records therefore committed fraud.

Amazon.Com DEDC, LLC, employer and American Zurich Ins., carrier Legal Representation, Attorney Russell J. Goudelock admitted in their response to a motion that R67-611 does not required a pro se claimant to filed a pre-legal brief which confirms the egregious error of Commissioner Michael Campbell II on May 21, 2015. South Carolina Worker's Compensation Commission Full Appellate Panel on December 14, 2015 held discussions regarding motions filed by pro se claimant and employer and insurance carrier in the absent of all parties and off the record. South Carolina Worker's Compensation Commission Full Appellate Panel made their decision off the record and did not provide a justification when requested for their decision to deny admission of pertinent medical and supportive documentations from May 21, 2015 hearing.

South Carolina Worker's Compensation Commission Chief Legal Counsel, Attorney Keith J. Roberts in a report filed by Lexington County Sheriff Department, Officer J.R. Brock that Appellant was suffering from Post Traumatic Stress Disorder (PTSD) which confirms medical condition and South Carolina Worker's Compensation Commission was aware due to pertinent medical records which had been submitted. Appellant has been declared to have a disability and disability payments has been paid by Amazon.Com DEDC, LLC, Liberty Mutual Insurance and Aetna Insurance.

The expert's evaluations was provided by Dr. Carol Benoit and Dr. James Way. The United State Social Security Administration issued a determination stating that Appellant had been affected by the work injury on February 10, 2013.

The order signed by Judge Casey L. Manning on May 27, 2016 is not a true order due to inaccurate information and misrepresented facts. In the signed Order by Judge Casey L. Manning stated that Appellant's Complaint and Summons were filed on December 3, 2015 which becomes a false document due to the actual date of December 1, 2015 as verification by court

documents. The signed Order by Honorable Judge Casey L. Manning presented on March 22, 2016 stated Appellant has not filed an appeal to The South Carolina Court of Appeals which becomes a false document due to A Notice Of Appeal was filed on March 21, 2016 as verification by court documents.

Burnett v. City of Greenville 400 S.C. 417,737. S.E. 2d 200 (2012) was reversed and remanded because sufficient medical evidence was presented to South Carolina Worker's Compensation Commission therefore worker's compensation benefits should have not been denied. In Mylan Laboratories, Inc. vs. Matkari 7F. 3d 1130 4th Circuit (1993) reversed in favor Mylan because alleged violations was properly stated in third appeal to district court. The courts have usually ruled that a case shall not be dismissed under 12 (b) when allege violations has been sufficient stated in complaint. Solanki v. Wal-Mart 763, S.E. 2d 615, 410, S.C. 229 affirmed the decision in favor of Mr. Solanki because he had suffered imprisonment due to egregious error by a Wal-Mart employee that was considered gross negligence by the court.

Supreme Court of South Carolina by signed order on November 12, 2015 which became effective January 1, 2016 that all civil cases in Richland County require Alternative Dispute Resolution Rule 3 of S.C. Code of Law 15-79-105 (C). Appellant did not received Alternative Dispute Resolution in my civil case against South Worker's Compensation Commission as required by Supreme Court of South Carolina therefore a willful violation by Jeanette McBride of Richland County Court of Common Pleas and Honorable Judge Casey L. Manning.

ARGUMENT

- I. BECAUSE RESPONDENT EGREGIOUS ERROR OF R67-611 DENIED APPELLANT AN IMPROPER DEFENSE BY NOT ALLOWING SUBMISSION OF PERTINENT MEDICAL DOCUMENTATIONS AND SUPPORTIVE RECORDS.

South Carolina Worker's Compensation Commission Law R67-611 which states that a pro se claimant does not need to filed a pre-legal brief.

- II. BECAUSE RESPONDENT REGULATORY ADVISORY STATES FORM 14B IS REQUIRED WHEN AN EMPLOYER STATES MAXIMUM MEDICAL IMPROVEMENT WHICH HAS NOT BEEN PROVIDED BY ASSIGNED WORKER'S COMPENSATION DOCTOR, DR. MAHMOUD ABU-ATA BECAUSE OF MEDICAL CARE NEEDED.

Form 14B or physician's narrative report is required stating impairment rating, work restrictions or any future medical needs.

- III. DID RICHLAND COUNTY CIRCUIT COURT HAS JURISDICTION AND VENUE OF ACTIONS AFFECTING STATE AGENCIES AND OFFICIALS.

S.C. Code Ann. 15-77-50 allows for jurisdiction over state agencies and therefore case should have not been dismissed by Honorable Judge Casey L. Manning.

- IV. DID SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION WILLFULLY DENIED WORKER'S COMPENSATION BENEFITS.

S.C. Code Ann. 42-9-10 states when incapacity from work resulting from injury is total, the employer shall pay, or cause to be paid as provided in this chapter etc.

- V. DID SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION WILLFULLY REJECTED CLAIMANT ACCURATE INFORMATION ON SOUTH WORKER'S COMPENSATION FORM 50.

S.C. Code Ann. 42-1-700 (C) if the employee is not represented, the employees who signs a form 50 must verify the contents of the forms are accurate and true to the best of the employee's knowledge. Claimant provided accurate and true information on fo 50.

- VI. DID SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION WILLINGLY ACCEPTED A FALSE AND MISREPRESENTATION OF FACTS BY EMPLOYER.

S.C. Code Ann. 42-1-705 (C) states must be signed by an attorney, verifying that the contents of form are accurate and true to the best of their knowledge. South Carolina Worker's Compensation Commission willfully accepted a fraudulent misrepresentation by Attorney J. Russell Goudeock representing Amazon.Com DEDC, LLC, employer and American Zurich Insurance, carrier.

VII. DID RICHLAND COUNTY COURT OF COMMON PLEAS VIOLATED S.C. CODE 15-79-105 (C) OF SUPREME COURT OF SOUTH CAROLINA.

Appellant was not provided Alternative Dispute Resolution by Order of The Supreme Court of South Carolina, S.C. Code 15-79-105 (C) Rule 3 effective January 1, 2016.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

September 30, 2016

Respectfully submitted,



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Attorney for Appellant

THE STATE OF SOUTH CAROLINA
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Respondent.

PROOF OF SERVICE

I certify that I have served Initial Brief and Designation of Matter on South Carolina Worker's Compensation Commission by depositing a copy of it in the United States Mail, postage prepaid, on September 30, 2016, addressed to their attorney of record, Keith Roberts, Post Office Box 1715, Columbia, South Carolina 29202-1715.

September 30, 2016


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Columbia, SC

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SC Court of Appeals

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Ref: 2016-001382

Ms. Kitchens:

Transcript for March 22, 2016 Circuit Court Hearing
has been received on 9-26-2016.

Sincerely,

Oliver S. Pitt Jr

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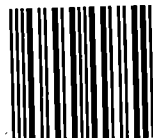
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