

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Workers Compensation Full Commission

Appellate Case #2016-001257

Michael Thompson, Employee, Claimant, Appellant,

v.

KMS Inc., Employer, and Bridgefield Casualty Insurance Company
c/o Summit Holdings Inc., Carrier, Respondent

[INITIAL] BRIEF OF APPELLANT

September 29, 2016


Michael Thompson
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SC Court of Appeals

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STATEMENTS OF ISSUES ON APPEAL

1. DID THE COMMISSION ERR IN FINDING THAT THE APPELLANT KNOWINGLY AND WILLFULLY MISREPRESENTED HIS PHYSICAL CONDITION?
2. DID THE COMMISSION ERR IN FINDING THAT RESPONDENT RELIED ON THE MISREPRESENTATION AND THAT THE RELIANCE WAS A SUBSTANCIAL FACTOR IN HIRING OR PLACEMENT?
3. DID THE COMMISSION ERR IN FINDING THAT THE APPELLANT SUFFERED BACK PROBLEMS FROM 2007 TO 2013 THAT WERE RELATED TO THE BACK ITSELF?
4. DID THE COMMISSION ERR IN FINDING THAT THE REPDENT HAD THE OPPURTUNITY TO EXAMINE ANY MEDICAL RECORDS FROM 2007 -2013 AND DIDN'T HAVE OPPORTUNITY TO RELEASE OR CHANGE THE PLACEMENT OF THE APPEALENT?

STATEMENT OF THE CASE

This is an Appeal by Michael Thompson (Appellant) from the Decision and Order of The Full Commission of The South Carolina Workers Compensation Commission filed May 6, 2016. The claim came before the Workers compensation commission after the Respondents filed a Form 21 on July 4, 2015. The respondents assert Fraud under COOPER v. McDEVITT & STREET CO., 260 S.C. 463 196 S.E. 2d 833 (1973). The Appellant denies these charges.

The initial hearing was held on September 15, before Commissioner Avery B. Wilkerson, Jr.. The Commissioner filed his Decision and Order on November 18, 2015. On November 10, 2015 the Appellants lawyer withdrew from the case. On June 3, 2016 the Appellant, acting Pro Se, filed the Notice of Appeal.

ARGUEMENTS

1. DID THE COMMISSION ERR IN FINDING THAT THE APPELLANT KNOWINGLY AND WILLFULLY MISREPRESENTED HIS PHYSICAL CONDITION? The Appellant had a dissolved Minor back Strain, which leaves no existing conditions. The major factor that is used to separate Minor and Major Injuries. ; Lisa Bray/Human Resources wanted only knowledge of restrictions. The Commissioner stated that the Appellant was referring to a fellow employee, when Lisa Bray was responsible for hiring me. See (App. APA pg. 76,H.T.,pgs.47-51, D.&O. #2,pg.7, Dep. Of J.C. pg. 8,li. 21,22)

2. DID THE COMMISSION ERR IN FINDING THAT RESPONDENT RELIED ON THE MISREPRESENTATION AND THAT THE RELIANCE WAS A SUBSTANCIAL FACTOR IN HIRING OR PLACEMENT? With no limitations and at 100% recovery from a minor injury , you have no reliance on placement,and Respondent testified it was not a factor. See (See App. Ex. 2 Dep. of J.C. pg. 10, li.3-6,24-25, pg.11,li.120-24,pg. 12,li.4).

3. DID THE COMMISSION ERR IN FINDING THAT THE APPELLANT SUFFERED BACK PROBLEMS FROM 2007-2013 THAT WERE RELATED TO THE BACK ITSELF? The Appellant asserts no medical evidence relates to seeking or being treated for issues CAUSED BY THE BACK. A Medical Profile from from the Appellants Primary Doctor is not marked clearly as caused by the back. Appellant never referenced the back strain on the Profile. See (Def. APA pgs 12,13).

(continued page 3)

ARGUMENTS

(H.T., pg. 39,li.2-22,pg 40,li.1-13). In 2013 the Appellant was diagnosed with Sleep Apnea, the Registration Form asked what Symptoms related to the disorder was the Appellant having? Appellant cited backaches and pains due as a symptom.

See (Def.APA pgs. 39-40).


4. DID THE COMMISSION ERR IN FINDING THAT THE REpondent HAD THE OPPURTUNITY TO EXAMINE ANY MEDICAL RECORDS FROM 2007 -2013 AND DIDN'T HAVE OPPORTUNITY TO RELEASE OR CHANGE THE PLACEMENT OF THE APPELLANT? The Respondents knew or Had opportunity to review all Medical Records from 2006 thru 2010. The Appellant lost a fourth of hisindex finger at work while employed with the Respondent resulting in a Workers Compensationfiling. The Appellant ended up resolving his employment due to his Anxiety Disorder/ PTSD.See (Dep. of W.F.pg.7,li. 5-12). Appellant was rehired in 2012, diagnosed with Sllep Apneain 2013, and finally was participating in Family Medical Leave of Absence(FMLA) in 2014 at which time the Repondents had ample opportunity to end my employment or make placement changes. See (Dep. of W.F. pg. 7, li. 5-12, Def. APA pgs. 21-24, 36-40).

Conclusion

With respect to The Honorable Court of Appeals, if it would find the assertion of Fraud
In the above case to be without merit or reason because of the weight of the evidence in
The Record as a whole.

September 29, 2016

Respectfully submitted,



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Appeal from Richland County
Workers Compensation Commission

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Columbia SC, 29211

Michael Thompson, Employee, Claimant, Appellant,


v.

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Company c/o Summit Holdings, Inc., Carrier, Respondent

PROOF OF SERVICE

I certify that I have served a copy of The Initial Brief and Designation of Matter
By depositing it in the United States Mail, postage prepaid, on Sept. 29, 2016, addressed
to Nicolas L. Haigler, P.O. Box 1149, Columbia SC, 29211.

September 29, 2016


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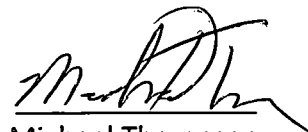
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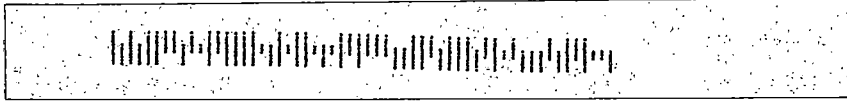
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September 29, 2016

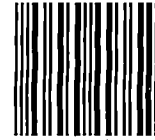


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