

The South Carolina Court of Appeals

Clarence B. Jenkins, Employee, Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and American
Zurich Ins. Co., Carrier, Respondents.

Appellate Case No. 2016-000598

ORDER

Appellant has filed a "Motion to Declare a Violation of Rule 4.1 and Rule 8.4" of the South Carolina Rules of Professional Conduct, arguing Respondents' attorneys made false statements in their initial brief in an attempt to defraud this court. The motion is denied.

Respondents have filed a motion (1) to strike portions of Appellant's initial reply brief that raise new arguments and reference items not presented to the Workers' Compensation Commission, and (2) to strike or order clarification of several items in Appellant's designation of matter. Respondents' motion is granted with respect to Appellant's initial reply brief. Appellant shall, within twenty days of entry of this order, serve and file an amended initial reply brief that excludes the following issues and related arguments: "III. Did Single Commissioner Michael Campbell II. erred with instructions and declaring Appellant lacks credibility from May 21, 2015 hearing?"; "VIII. Did The Commission Appellate Panel erred by not accepting medical evaluations from Dr. Carol Benoit and Dr. James Way that verifies a direct and casual relationship to work injury on February 10, 2013 under R67-707"; and "VIII. Did The Commission Appellate Panel erred by refusing and rejecting a medical assessment by SCWCC Legal Counsel, J. Keith Roberts in J.R. Brock's report of Lexington County Sheriff Office under R67-707?" *See State v. Hewins*, 409 S.C. 93, 118 n.9, 760 S.E.2d 814, 827 n.9 (2014) ("It is well settled appellants may not make new arguments for reversal in their reply brief."). In addition, Appellant shall strike from his amended initial reply brief all references

to the medical evaluations by Dr. Carol Benoit & Dr. James Way and any disability payments from Liberty Mutual Insurance or Aetna Insurance. Respondents' motion is denied with respect to Appellant's designation of matter; however, Appellant shall not include any items in the record on appeal that were not presented to, and accepted by, the Workers' Compensation Commission. See Rule 210(c), SCACR ("The Record shall not . . . include matter which was not presented to the lower court or tribunal."). Failure to comply with this order and the South Carolina Appellate Court Rules may result in dismissal of this appeal.


FOR THE COURT

Columbia, South Carolina

cc: Clarence B. Jenkins
J. Russell Goudelock, II, Esquire
Helen F Hiser, Esquire

FILED

February 2, 2017