

Brief of Appellant

The State of South Carolina
in the Court of Appeals

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JUN 16 2017

SC Court of Appeals

Appeal from Richland County
Administrative Law Court

South Carolina Workers Compensation
Commission

Commissioners: Melody & James
T. Scott Beck
Avery B. Willkerson

Case # 2017-000379

Errol D. Chapman - Appellate
VS

Carolina Construction Solutions, LLC - Respondents

Initial Brief of Appellate

Errol D. Chapman

3515 Cleander Cr.

Sumter, SC 29154

803-458-8706 Appellate

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Table of Authorities

Statutes

S.C. Code Ann 42.15.95

S.C. Code Ann 42.15.60

S.C. Code Ann 42.9.10

S.C. Code Ann 42.9.30

S.C. Code Ann 42.15.60

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Statutes

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Statement of Issues on appeal

Do you think the commissioners applied the wrong law? If so why?

42.15.95. Any discussion or communication must not interfere with the employee's examination or treatment.

42.15.60. Employer did not provide appropriate medical care or any treatment past physical therapy and pain medication.

42.9.10. I'm entitled to award of TTD.

I haven't been offered a job within my work restriction. I was placed on a "no driving" restriction on 11-24-15 and haven't received a workers comp payment since 11-9-15.

42.9.30. I lost all feeling in my left thumb and right index finger which has lasted since the date of injury over a year ago.

42.15.60. I haven't received any treatment to address any of my ^{injuries} past physical therapy and pain medication.

③

Statement of the case

Do you feel there are any other reasons why commissioners judgement was wrong?
If so, why?

I felt the commissioners was totally bias in my hearing. I feel he erred to properly investigate my claim and overlooked the important facts of the case. The commissioners allowed opinions to outweigh the facts and cloud their judgement in my case. I felt disrespected and badgered at points in my hearing. The commissioners erred to ask any questions relevant to my claims and lacked and/or had inconsistent medical records to properly hear my case at the time. Att. Micheal Burkett lied under oath about important facts during my hearing, in which I had to provide to prove otherwise. The commissioners still sided with the insurance carrier. The commissioners allowed Mr. Burkett to talk down about my family in a very disrespectful manner. I felt insulted as well as saddened by the thought process people still have till this day. I feel I didn't have the opportunity for a fair and unbiased hearing.

My lawyer left out important facts of my case, pictures of my injuries, and recordings of my doctors appointment proving collusion with my nurse case manager Vanessa and Dr. Peele changing the course of my treatment and admitting meeting with Dr. Peele after my visit without me present. My course of treatment was also changed when I was scheduled for a lower back MRI and didn't receive it because I was told I didn't need it after they had met up. (Dr. Peele and Nurse Case Manager) I had been complaining about lower back pain and spasms, numbness to my feet since day one of my injury. Another example of collusion is my nurse case manager met with Dr. Amsey after he scheduled my bilateral carpal tunnel surgery and the case manager once again met with my doctor and they changed the course of my treatment. They also denied my surgery. That is just some examples of the treatments that could've gotten me back to work. I still till this day have not received a disability check (payment) since Nov. 9, 2015. I haven't seen a doctor

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since Feb. 2016. I'm living with pain and stress on a daily basis. I can't afford a doctor or any medical assistance since I'm not working and I haven't been offered a job by my employer within my work restrictions. There wasn't any reason or explanation why my compensation checks stopped. I have difficulty driving and walking as well as sleeping because of the pain in my shoulders, back, and knees. Also bilateral hand pain. I have problems gripping, feelings of numbness in both hands, lost total feeling to my left thumb and right index finger. I have pain in both knees, which has me walking with a cane. When trying to drive, I have numbness in my legs down to my feet. Shoulder and neck pain makes it hard to drive safe without the fear of causing an accident and harming another innocent person. I'm suffering from migraine headaches on a regular basis which blurs my vision and feels like built up pressure in the back of my head. I've been suffering from anxiety attacks. I barely get any sleep at night. I've woken up in cold sweats, bad

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back and leg cramping as well as swollen bilateral hand from my carpal tunnel injury. This injury has totally destroyed my life. I don't get to run around with my kids or go outside and spend time doing yard work. I haven't been able to be the man I was raised to be because of this injury. Before my injury I was working over 45 to 60 hrs a week. I was traveling over 300 miles a day round trip to work without reimbursement at one point. Not once did I miss work because of injury, or complain about any injuries. I was one of their hardest workers. I got a raise from \$15.00 to \$19.00ph within my first two months of being there. The date of my injury July 20, 2015, we were rewiring an Elementary School. I was in charge of putting the light fixtures in the ceiling grid and wire the light up. I finished up one side of the building and Tibbs (our forman) sent me to the next half. He told me to start wiring up the light in the ceiling grid on this side of the building. He said the power was off and they needed to get them in before

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inspection. I started my job and wired up about three (3) light fixtures without a problem. The power was off and when I got to the next light fixture all I remember was testing to see if the power was on and going to wire up the light fixture. All I felt was a major shock to both of my hands, that locked up my whole body. I couldn't yell or make any type of help single to my co-workers, then everything went black. The next thing I know is that my co-workers were standing around me asking me if I needed an ambulance. All I could think of is my job and hoping I wasn't going to lose it, which ended up happening anyway. All I'm asking for is justice and to be given what is due to me by law. I'm living with pain on a daily basis. I can't afford any medical support. I haven't work since my injury (July 20, 2015). I'm behind on my rent, car note and this has been added stress on my family and I on top of my injuries. I'm just asking for a fair and unbiased hearing. My initial lawyer left out important information in my claim because of his commadory with

Attorney Micheal Burkett. He and Mr. Burkett were missing identical paperwork at my first hearing which proves he wasn't out for my best interest. He left out important pictures of my injuries as well as not choosing to depose any of my witnesses. He didn't take any doctor statements of me complaining about doctors not recording all of my injuries and changing my course of treatment without me present. I asked them to explain why they chose to change my medical treatment which is in violation of 42.15.95.

The commissioners ruled on my claim prematurely and without a truly reliable source of medical records. I feel the commissioners ruling was unfair and bias on my claim and I should've been granted TTD and PTD dating back from Nov. 9, 2015. I haven't reached MMI, and is due future medical care by law.

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Facts of case

Did the commissioners incorrectly decide the facts? If so, what facts?

I still haven't received an "MRT" of my lower back or my Bilateral knee pain. I was diagnosed with a lower back sprain and contusion from day one. I haven't received any treatment for my neck pain, headaches, night sweats at all. I was scheduled for Bilateral Carpal Tunnel Surgery which was denied by the insurance carrier. It was then recommended that I see a pain management specialist which was also denied by the insurance carrier. I still haven't had my Bilateral Knee pain examined by a doctor. I still haven't had any treatment on my Bilateral Shoulder pain. I lost all feeling to my right index finger and my left thumb. I still suffering from neck pain and that cause my neck to become stiff to the point it hard to turn or rotate.

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Facts of case

Did the commissioners fail to consider important reasons for an award of compensation? If so, what reasons?

I was placed on a "no driving" restriction on 11-24-15 and have not received a workers comp payment since 11-9-15. I've been diagnosed with Bilateral Carpal Tunnel Syndrome, Bilateral Shoulder injuries, Lower back and NECK SPRAIN and Contusion. I have not received any treatment past physical therapy and pain medication. I still haven't had my Bilateral Knee pain examined by a doctor or had any treatment for my massive headaches. Pressure has also built up in the back of my head. I still wake up in cold sweats at night and lost all feeling in my left thumb and right index finger. As an electrician, I work in a fast past environment which consist of using heavy machinery, Power tools, lifting, and carrying heavy equipment. Also, bending and pulling on 10 to 12 hour basis around hazardous materials where the top priority is health and safety.

Arguments

My first argument is I haven't received the proper medical treatment. I've been to two doctors and two M.E.'s hired by my employer. In each case, the doctors down played my injuries and changed the course of my treatment after talking to my nurse case manager. The first time was with Dr. Armsey when I was scheduled to have bilateral Carpal tunnel surgery. Which was denied after talking to my nurse case manager. The second was when Dr. Armsey wanted me to be seen by a pain management specialist, which again was changed after meeting with my nurse case manager and denied by my insurance carrier. Then, I was sent to Dr. Peele and after he evaluated me and my records, he scheduled for me to have an M.R.I. done on my cervical spine and my lumbar which I'd been in pain from since my injury. Once again, after meeting with my nurse case manager, Dr. Peele denied giving me the order for my M.R.I. (Which his written order is a part of the case record). I still haven't received an M.R.I. on my lower back or my neck that

Dr. Peele ordered. This all points to collusion between my insurance carrier and the doctors that treated me. I was also sent to Dr. Fulton and got M.R.I.'s on my shoulders which showed inflammation in both of my shoulders. Dr. Fulton lied on my disability rating saying I'm 0% injured to my shoulders. I have issues lifting, rotating, and sharp pain in both of my shoulders and still haven't received any treatment. I had to fire my lawyer for ineffective assistance of counsel, because he left important facts of my case out of the record. Pictures of my injuries as well as recordings of my visit with Dr. Peele where he recommends for me to get M.R.I.'s on my cervical spine and lumbar spine, which I still haven't received yet. I've been complaining about back and neck pain since day one (1) of my injury July 20, 2015. I was placed on a no-driving restriction by Dr. Amsey on Nov. 24, 2015 and I haven't received a worker compensation payment since Nov. 9, 2015. I'm still unable to work. I use a cane to get around mobility. I have issues driving a car safely. My hands go numb at the wheel as well as bad back spasms that

shoot down my legs so it's hard for me to drive safely. I haven't been seen by a doctor for massive headaches or any of my issues with the stress of living in daily pain brings. All I'm asking is to get medical attention so I can get back to a close to normal life. I haven't worked since July 20, 2015 and haven't received a payment from my insurance carrier since Nov. 9, 2015. I haven't been back to work and by law, owed all back pay dating back to date payments stopped. My claim has been judged too prematurely and I'm still due medical and monetary benefits due on this claim. I've been to two (2) doctors and two (2) E.M.E doctors for evaluating and no treatment.

This whole claim has been a bad faith effort by my insurance carrier to outright strip all my rights as an employee. I have received low rates at the best medical treatment. I was electrocuted and thrown off a ladder after passing out in the process. All I ask for is the proper medical and all benefits due on my claim. So I can try to reenter the work force at some level even if I may never be able to do

electrical work again in my life. Which in itself tragedy. Plus the pain in my hand and shoulders, lower back leaves me little hope. I've been treated like less than a human in this claim process. Not only by my lawyer, but by a justice system rigged against the little guy for big business. I'm fighting my claim Pro/SE because I believe in justice and doing the right thing and living by morals. To my insurance carrier, I'm just a dollar saved, but to my family I'm a father, son, brother, a person not a number. I'm in daily pain and I try to get through it everyday. I can't afford a doctor or a special lawyer to fight my claim. It's just me hoping the system doesn't fail another injured worker. I worked hard for my company and did everything by the book. Didn't miss a day of work. I traveled over 300 miles a day at one point to do my job without complaints of any injuries or problems with my work. I was one of my companies best Electricians, and as soon as I get hurt, they turned their backs on me. I was injured on the job and it was the fault of the company. But, I'm

here fighting for my rights to be made whole again and get treated like a human.

The power in the building I was working in was suppose to be off and I almost died.

Because of a companys mistake, I cant even get medical treatment. I lost all

feeling in my right hand (index finger) and my left thumb. I have problems writing

as well as gripping without my hands

cramping up. As I stated, all I'm asking

is for my employee rights to be respected and

my claim be deemed too premature and to

reverse the ruling and grant all back pay

dating back to Nov. 9, 2015 and grant all

future medical needed in this claim.

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Conclusion

What actions do you want the court of appeals to take?

1. I would like the court of appeals to grant all backpay (42.9.10) dating back to November 9, 2015.
2. I would like the court of appeals to grant PTD for left thumb and right index finger. I have lost all feeling to left thumb and right index finger.
3. I would like for the court of appeals to grant all future medical needs on claim.
4. I would like the court of appeals to open an Insurance fraud investigation on Rebecca S. Dula of Key Risk Insurance Company as well as all health care providers associated to my claim. Dr. Armsey, Micheal W. Pette, David Fulton, and Andrew Gulleage for acting in bad faith by not recording all my medical complaints and visible injuries and lying on medical reports about the extent of my injuries.

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I would like for the court of appeals to exercise section (42.17.30-42.9.35) and appoint a doctor of the court of appeals choosing to fully examine claimant because of conflicts of interest with healthcare provider an insurance carrier. For the reasons stated, this court should reverse the judgment of the Worker Compensation judges ruling.

I once again want to Thank the Court of appeals for reviewing my appeal and allowing my case to be judged on the facts and not opinions.

June 15, 2017

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Appeal from Richland County
Workers Compensation Commission

Commissioners: Melody L. James
T. Scott Beck
Avery B. Willkerson

Case #: 1509337

Carolina Construction Solutions, LLC and
Starnet Insurance Company

Errol Owayne Chapman

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Starnet Insurance Company by depositing a copy of it in the United States Mail, postage prepaid, on June 15, 2017 addressed to their attorney of record, Micheal Burkett, Esquire of Wilson Jones Carter & Baxley, P.A. in Columbia, South Carolina.
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Carolina Construction Solutions, LLC and
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Errol Dwayne Chapman

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