

Initial Brief of Appellate

The State of South Carolina court of appeals

Appeals from Richland county Administrative Law court

South Carolina Workers Compensation Commission

Commissioners: Melody I James

T. Scott beck

Avery B. Willkerson

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JUL 12 2017

SC Court of Appeals

Case#: 2017-000379

Errol Chapman, Claimant, Appellant

Carolina Construction Solutions LLC, Employer and StarNet Insurance
company, carrier, Respondents

Initial Brief of Appellate

July 10, 2017

Errol Chapman

3515 Oleander Dr.

Sumter S.C 29154

Claimant\ Appellant

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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

Statements of issues on appeal

Do you Think the commissioner 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 TTD. I have never been offered a job within my work restrictions. I was placed on a “no driving restriction” on 11-24-15 and have not received a Workers Compensation payment since 11-9-15.

42.9.30- I lost all feeling in my left thumb and my right index finger with a visible scar, which has lasted for over a year and a half.

42.15.60- I haven’t received any treatment to treat any of my injuries to past physical therapy and pain medication.

Statement of the Case

I felt the commissioners was totally bias in my hearing. I feel they erred to properly investigate my claim and overlooked the important facts of my 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 claim and had inconsistent medical reports to properly investigate my claim. Micheal Burkett lied under oath about important facts of my claim dealing with me losing consciousness during my accident. Which I had to provide medical reports to prove him wrong and 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 sadden by the thought process of people to this day. I feel I did not 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 doctor's appointments proving collusion between my nurse case manager Vanessa and my doctors throughout my whole claim. My recordings prove collusion her meeting with my doctors without my knowledge and consent. Vanessa meet with Dr. Peele changing the course of my treatment and admitting to 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 did not receive it because I was told after my nurse case manager Vanessa and Dr. Peele met without me present and without my consent. I have been complaining about lower back pain, spasms, and numbness to my feet since day one of my injury. Another example of collusion is my nurse case manager Vanessa met with Dr. Armsey after he scheduled my Bi-Lateral carpal tunnel surgery and changed the course of my treatment and denied my surgery. These are just a few examples of treatments that could have helped of assisted in my long road to recovery. I have not receive a Workers Compensation disability check since NOV.9, 2015. I haven't seen a doctor 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 haven't been offered a job within my job by my employer within my restrictions. There were never any explanation or reason why my compensation checks stopped. I have difficulty driving and walking as well as sleeping because of the pain in my shoulders, back, knees and bilateral hands. I have problems gripping feelings of numbness in both hands. I lost total feeling in my right index finger and my left thumb. I have pain in both knees which has me walking with a cane. When trying to drive or just sitting I have numbness in my legs and feet. My shoulder and neck pain makes it hard to drive safe without the fear of causing

an accident and harming another person. I'm suffering from migraine headaches on a daily basis which causes my vision to blurr and feels like pressure building up 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 back and leg cramping as well as swollen hands from my carpal tunnel injury. This injury has totally destroyed my life. I don't get to run around with my kids which in which I have 6 or even just going outside doing yard work. I haven't been able to be the man I was raise to be, because of my injury. Before my injury I was working over 45 to 60 hrs a week. I was traveling over 300 hundred miles a day round trip without no per diem or reimbursement at one point. I as one of their hardest workers. I received a raise from 15.00 to 19.00 /hr within my first 2 months of working for my employer. The day of my injury July 21, 2015, we were rewiring and elementary school. I was in charge of putting the light fixtures in celling grid and wiring the lights up. I finished up one side of the building and Tibbs the foreman at the time sent me to the next half of the building to start wiring those lights up. Tibbs said the power was off in that side of the building and he needed the lights up for inspection. I wired up about 3 light fixtures without a problem I tested each one for power and the power was off. When I got to the 4th light fixture I tested it for power and the power was off as I tried to wire it up and I felt a major shock go through both of my hands locking up my whole body. I feared for my life I couldn't yell or send any type of help signal to my co-workers

for help then everything went black. The next thing I remember my co-workers were standing around me asking me if I was ok and if I needed an ambulance. All I could think of was my family and my job hoping I wasn't going to be hurt so bad I ended up losing it and that is what ended up happening anyway. All I'm asking for is justice and to be giving what is due to me by law, which is to be treated equally and fairly. I'm living with pain on a daily basis, I can't afford any medical support. I haven't worked since the day of my injury (July 20, 2015). I'm behind on rent my car note my utilities and it just been added stress on my family as well as me on top of my injuries. I'm just asking for a fair and unbiased hearing. My initial attorney left out important information in my first hearing, because of his close comradery with attorney Micheal Burkett. My attorney at that time Richard Simmons, and attorney Micheal Burkett were missing the exact same paper work during my first hearing which shows he wasn't prepared for my hearing and was only looking out for his best interest. He left out important information and pictures of my injuries as well as him not choosing to depose any of my witnesses. He didn't take any doctor statements even after I was telling him they were brushing off all my injuries and kept changing my course of treatment without me present. I'm asking why they kept choosing to change my course of treatments which was in violation of 42.14.95. The commissioners ruled on my claim prematurely and without a truly reliable source of medical reports the doctors I saw were hired to down play my injuries by the insurance carrier which

would be acting in "bad faith tactics". I feel the commissioners ruling was unreasonable unfair and bias towards me. I believe under the law it my right to have a fair an untainted hearing. By law I should've been granted TTD and PTD for my left thumb and right index finger. I haven't reach MMI and is still due future medical on this claim.

Facts of the case

I still haven't received an MRI of my lower back or even been to an exam for my bilateral knee pain. I was diagnosed with a lower back sprain and contusion from day one of my injury. I haven't received any treatment for my neck pain headaches night sweats or any of my injury issues. I was scheduled for bilateral carpal tunnel surgery which was denied by the insurance carrier. Then it was recommended that I be seen by a pain management specialist which was also denied by the insurance carrier. I still haven't had any treatment for my bilateral shoulder pain I lost all feeling to my right index finger and left thumb. I'm still suffering from neck pain which becomes so stiff at times it's hard to rotate or even turn my neck. I was placed on a no driving restriction on 11/24/15 and haven't received a workers compensation payment since 11/9/2015. I've been diagnosed with bilateral carpal syndrome, bilateral shoulder pain lower back and neck sprain and contusion. I still have not even had my bilateral knee pain looked at or examined by any doctor at any time during my claim and I've had knee pain issues since day one. As an electrician I work in a fast pace environment which consists of

using heavy machinery, power tools lifting and carrying heavy equipment. Also bending pipe and pulling wire through conduit on a constant 10 to 12 hr basis around hazardous materiel's where safety and health is the main concern.

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Arguments

My first argument is I haven't received the proper medical treatment. I been to 2 doctors and 2 "IME" hired by my employer. In each case the doctors down played my injuries and changed my course of treatment after talking to my nurse case manager Vanessa. The first time was with Dr. Armsey when I was scheduled to have my bilateral carpal tunnel surgery, which was denied by the insurance carrier. The second was Dr. Armesy wanted me to be seen by a pain management specialist which was again changed after meeting with my nurse case manager Vanessa was denied by the insurance carrier. Then I was sent to Dr. Peele and after he evaluated me and my records he scheduled for me to have an MRI done on my cervical spine and my lumbar which I'd been in pain from since day one of my injury. Once again after meeting with my nurse case manager Vanessa Dr. Peele denied ever giving me the order for an MRI, which his written order is part of the record. I still haven't received an MRI on my lower back or neck that Dr. Peele ordered. This all points to bad faith tactics and collusion between insurance carrier and health care provider. I was also sent to Dr. Fulton and got MRI's done on my shoulders which showed inflammation in both shoulders. Dr. Fulton proceeded to fill out a 14b and lied saying the MRI showed no injury to my shoulders and gave me a 0% disability rating. I have issues lifting, raising and rotating my arms with popping in

my joints and pain I still haven't received any treatment. I had to fire my original attorney for ineffective assistance of counsel because he left out important facts of my case and allowed in opinions of doctors being paid by their insurance carriers without even deposing before the court. He left my recording of my doctor visit with Dr. Peele visit where he recommended me to have a MRI done on my lower back and cervical spine that I still have not received. I've been complaining of neck and back pain since day one of my injury July 20, 2015. I'm still unable to work I use a cane to get around I have issues driving safely my hands go numb at the wheel as well bad back spasms that shoots down my leg as I'm driving. I haven't seen a doctor for my headaches or any issues dealing with the stress of living in daily pain. I've been asking for medical attention since day one so I can try to get back close to working. I haven't worked since July 20, 2015 and haven't received a workers compensation check since 11/9/15 and was placed on a no driving restriction on 11/2016. I haven't been back to work because of a work related injury by law I'm owed all back pay dating back to 11/9/15. My claim have been judged to prematurely and I'm still due future medical benefits due on claim. I've been to 2 doctors and 2 IME doctors for evaluation never any treatments past therapy and pain medication. This whole claim has been down right bad faith effort to deny and strip my rights as a worker. I have received at best low rate medical treatment. I almost died being electrocuted and thrown off a 10 ft ladder after passing out in the process. All I

want is the proper medical treatment and all benefits due on my claim. So I can reenter the work force at some level even if I may never be able to do electrical work again in my life. Which is a tragedy in itself with the pain in my lower back, shoulders it leaves me with little hope. I've been treated like less than a human through 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 the justice system and what it stands for. To my insurance carrier and my employer I'm just another number to my family I'm a father, son, brother, co-worker a person with everyday feelings and I'm in daily pain without relief. I can't afford a doctor or a high powered attorney to fight my claim it's just me hoping the system doesn't fail another hard working injured worker. I worked hard for my company and did everything by the book. Didn't miss a day of work from injury. I traveled over 3000 miles a day at one point to do my job without any complaints of injuries to my hands or back. I had no problems at work till I got injured and now I'm out of a job and injured. I was one of my company's best electricians and as soon as I got hurt none of which was my fault the power was supposed to be off in the side of the building I was working on. I got hurt and my company turned their backs on me like I was never there I was injured on the job and it was the company's fault, and yet I'm still here having to fight for my rights and I'm the injured worker. I just want to be treated like a human being and not

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just a dollar saved by my employer and his insurance carrier. I have problems writing as well as gripping without my hands cramping up. As I stated all I'm asking for is for my employee rights to be respected under the law and my claim been deemed premature and reverse the ruling and grant all back pay dating back from 11/9/15 until now and all future medical.

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Conclusion

1. I would like the court of appeals to grant all back pay dating back from 11/9/15 .(42.9.10)
2. I would like the court of appeals to grant PTD for permanent injuries to my left thumb and right index finger I lost all feeling of touch in my left thumb and right index finger.
3. I would like 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, and bad faith investigation on Rebecca S. Dula of key risk insurance company as well as all health care providers associated to my claim. Dr. Armesy, Micheal W. Peele, David Fulton and Andrew Gullede for acting in bad faith by not recording and down playing all my medical complaints and visible injuries, and for also lying on medical reports about extent of my injuries.
5. 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 health care provider and insurance carrier. For those reasons stated this court should reverse the judgement of the Workers Compensation full commissions ruling.

I once again want to thank the court of appeals for reviewing my appeal and allowing my case to be judge on facts not opinions.

July 10, 2017

Errol Chapman

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Appeal from Richland County
Workers Compensation Commission

JUL 12 2017
SC Court of Appeals

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

Case #: 1509337

Carolina Construction Solutions, LLC Employer
and Starnet Insurance Company, carrier; Respondents

Errol D. Chapman, claimant, Appellant

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I certify that I sent copy of brief on
7/5/17 and served the notice of brief on
Carolina Construction Solutions, LLC and Starnet

Insurance Company by depositing a copy of
it in the United States Mail, postage
prepaid, on July 5, 2017 addressed to their
attorney of record, Micheal Burkett, Esquire
of Willson Jones Carter & Baxley, P.A. in
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July 5, 2017

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and Starnet Insurance Company, carrier, Respondents.

Errol D. Chapman, claimant, Appellant

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July 5, 2017

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SC Court of Appeals

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Amended Initial Brief

I, Enrol Chapman am writing a letter in response to the June 23, 2017 letter sent out by S.C. Court of Appeals asking me to make admenments to my Initial Brief and Designation of Matter caption / title. I certify that on July 5, 2017 I served copies of amended Initial brief and amended Designation of Matters to Carolina Consturction Solutions, LLC, Employer Respondant and Starnet Insurance Company, Carrier, Respondents, the Workers Comp. Commission by depositing a copy of both in the United States Mail, postage prepaid, on July 5, 2017 address to their Attorney Micheal Burkett of Wilson Jones Carter Baxley, P.A in Columbia, South Carolina 29201 3600 Forest Drive. Suite 204 and Workers Compensation Commission 1333 Main St. Columbia, S.C. 29201

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