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STATE OF SOUTH CAROLINA
In The Court Of Appeals

Appeal From The South Carolina
Workers Compensation Single Commissioner
ORDER, "CHAIR PERSON'S REJECTING "
Form 32, To Waive Filing Fee's
To Appeal To Full Commission

Appellate Case No:2016-001457
W.C.C. File No: 1410083

Terry McCall #233236, Appellant

Vs.

Trojan Labor, Hire Quest, L.L.C., Respondents

ORIGINAL
NO RESPONDENTS BRIEF FILED

RECEIVED

JUN 02 2017

SC Court of Appeals

FINAL BRIEF OF APPELLATE

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Terry McCall #233236

Kershaw CI/ Palmetto B-34-T
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Kershaw SC 29067

Appellant

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TABLE OF AUTHORITIES

1. Boddie V. Connecticut, 401 U.S. 371, 91 S.Ct 780 (1971)
2. Martin V. State, 471 SE2d 134 (1995)
3. Ortwein V. Schwab, 410 U.S. 656, 93 S.Ct. 1172 (1973)
4. United States V. Kras, 409 U.S. 434, 93 S.Ct. 631 (1971)

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Statement of the case

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- (1). Whether there were a clerical error, prohibiting/causing the Chair Person to reject form 32 to waive the filing fee's. For the appellant to appeal to the full commission where the clerk clocked-in form 30 the date the commission received it, rather than date it was mailed, with accompanying certificate of service dated March 8, 2016.

- (2). Did the Chair Person err denying McCall's form 32 or rejecting form 32 to waive filing fee's. **Where certificate of service dated March 8, 2016 accompanied the form 30. But the clerks office erred clocking the form 30 in March 11, 2016 instead of March 8, 2016 date it was mailed by the claimant/appellant**

STATEMENT OF ISSUE ON APPEAL

- (1). Whether there were a clerical error, prohibiting/causing the Chair Person to reject form 32 to waive the filing fee's. For the appellant to appeal to the full commission where clerk clocked-in form 30 the date the commission recieved it, rather than date is was mailed, with accompanying certificate of service dated March 8, 2016.
- (2). Did the Chair Person Err denying McCall's form 32 or rejecting form 32 to waive filing fee's. where certificate of service dated March 8, 2016 accompaned the form 30. But the clerks office erred clocking the form 30 in March 11, 2016 instead of March 8, 2016 date is was mailed.

STATEMENT OF THE CASE

Terry McCall, Appellant filed his workers compensation claim on form 50 by mailing his form 50 on November 18, 2014, the commission recieved the form 50 for injuries suffered on June 30, July 4, 2014 on November 20, 2014, requesting a hearing.

A hearing was set for August 28, 2015 in front of Commissioner, Gene McCaskill. In which benifits for total temporary benifits and medical benifits were denied. The Order of denial was mailed to Appellant on February 24, 2016.

On March 8, 2016 Appellant mailed out his form 30 requesting commission review, by full commission, along with his form 32, requesting to waive the filing fee's. Due to his present incarceration without funds. The Chair Person rejected the Appellant's form 32 to waive the filing fee's without stating why. The Appellant later refquested to be allowed to file under the prison litigation act, but was never responded too. The Appellant now appeals to the South Carolina Court Of Appeals once again. After being dismissed from Appeal September 30, 2016 by Court of Appeals. On December 1st, 2016 Judge Lockemy issued an Order reinstating this appeal. Limiting the scope of the appeal to be soley on issues stemming from the denial of Appellant's request to waive filing fees, and dismissal of his appeal to the commission.

ARGUMENT

- (1). The Chair Person Erred by rejecting Appellant's form 32. Where a clerical error was made by the clerks office clocking form 30 in on March 11, 2016 insted of date it was mailed, March 8, 2016, with the accompanying certificate of service dated March 8, 2016. See: 23 S.C. Code Ann. Regs 67-205 (D) (1976) However several of the Appellant's forms including form 30 are deemed filed on the date of the accompanying certificate of service properly addressed to the commissioner.

- (2). The Clerks Office Erred where it clocked in Appellant's form 30 March 11, 2016, after the accompanying certificate of service revealed date mailed out March 8, 2016

Here the single commissioner served a copy of its order on February 24, 2016 (Single Commissioner Order, Pg 20 attached as exhibit(B). Appellant had fourteen days to request Commission review of the single commissioners order by filing form 30 by March 9, 2016. Appellant's handwritten certificate of service accompanying his form 30 is dated March 8, 2016. (Form 30) is attached as Exhibit C).

It appears the commission committed a clerical error by dating the form 30 as March 11, 2016, Which was the date the Commission Clerks Office recieved it. The Commission Chair Person should have accepted Appellant's form 30 and grante to waive the filing fee's on form 32. Because the Appellants form 30 was timely. Therefor the Chair person Erred as well denying form 32 .

CONCLUSIONS

The Appellant prays the Court issues its Order reversing the decision denying Appellant his right to file Pro Se' waiving the filing fees by South Carolina Workers Compensation Commission Chair Person, as the Court deems just and proper.

Dated

5-31-17

s.

Terry McCall

Terry McCall #233236

Goodman Corr. Inst.

D-3-B27-B

4556 Broad River Rd

Columbia, S.C. 29210

PROOF OF SERVICE

I, Terry McCall Have served the Record of Appeal and Appeal Brief, Final Brief on the parties listed below by placing the same in the United States Postal Mail service, postage prepaid and affixed to the addresses below. Motion for Pro Se Status enclosed also.

Dated

5-31-17

s.

Terry McCall

Terry McCall #233236

Goodman Corr. Inst.

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