

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

FEB 22 2018

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1303989

Clarence B. Jenkins, Employee, Appellant,

v.

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

**RETURN IN OPPOSITION TO
APPELLANT'S MOTION TO SUBMIT
ADDITIONAL DOCUMENTS AND
ALLEGATIONS OF VIOLATIONS**

Pursuant to Rule 240, SCACR, Respondents Amazon.Com DEDC, LLC and Zurich Ins. Co. file this Return in Opposition to Appellant Clarence B. Jenkins Jr.'s February 13, 2018 "Appellant's Motion to Submit Pertinent Documents Against Respondents Distortions Declaring Violations of Rule 4.1 and Rule 8.2" ("Motion"). Although there does not appear to be a proof of service attached to the Motion, Respondents received a copy of the Motion on February 16, 2018. However, again, Appellant has failed to submit the required \$25.00 motions filing fee with his request, which he has acknowledged.

With respect to the substance of Appellant's request, the documents attached to the Motion were never submitted to the Commission. Just because Respondents subpoenaed the documents, and may have had some or even all of them in their possession, does not mean that those documents were submitted to the Commission for consideration. Appellant acknowledges

that he “was denied submission to South Carolina Worker’s Compensation Commission at May 21, 2015 and December 14, 2015 hearings.” The documents attached to his Motion were never submitted to the Commission because he failed to comply with the Commission rules governing designation of materials prior to the hearing. *See* S.C. Code Reg. § 67-612; (R. p. 98, line 1 – p. 100, line 8) (R. p. 72, line 11 – p. 76, line 20).

As a result, these materials are not part of the Commission file and cannot be considered by this Court. Appellate review of a Commission decision is confined to the record before the Commission. S.C. Code Ann. § 1-23-380(4) (“[t]he review must be conducted by the court and must be confined to the record”); *see also* Terry v. South Carolina Dept. of Health & Env’l Control, 377 S.C. 569, 574, 660 S.E.2d 291, 294 (Ct. App. 2008) (appellate review of agency decisions “is confined to the record ...”); Martin v. Rapid Plumbing, 369 S.C. 278, 288, 631 S.E.2d 547, 553 (Ct. App. 2006) (“[t]his Court’s review is restricted to the evidence considered by the appellate panel in reaching its decision,” and may not rely on evidence not considered by the Commission).

There has been no distortion, harassment or violation of Rule 4.1 and/or Rule 8.2 here. Appellant failed to comply with the Commission rules and, as a result, a number of documents he sought to present to the Commission, folders of which he carried with him to the Single Commissioner hearing without any prior notice, were rejected. Despite being asked repeatedly by both the Single Commissioner and the Appellate Panel whether he wanted to obtain legal counsel, Appellant declined. *See* (R. p. 70, lines 2-16) (R. p. 76, lines 5-20) (R. p. 106, line 7 – p. 108, line 10) (R. p. 111, line 16 – p. 113, line 16) (R. p. 102, line 22 – p. 113, line 12) (R. p. 76, lines 5-20) (R. p. 131, line 23 – p. 132, line 3). Appellant knowingly chose to represent himself and must bear the consequences of his failure to follow Commission regulations. State

v. Burton, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003) (a *pro se* litigant “who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law”).

Furthermore, Appellant seems to misunderstand that Short Term Disability payments are not the same as Workers’ Compensation disability payments. Whether or not he was paid Short Term Disability is completely irrelevant to his workers’ compensation claim. In fact, Amazon’s Short Term Disability coverage was provided by an entirely different insurer (Liberty Mutual) than the carrier that provided its workers’ compensation insurance (American Zurich).

Finally, despite Appellant’s recent Motion to Have All Proceedings Stayed, received by this Court on February 7, 2018, it appears he is entirely capable of continuing to file motions in order to delay adjudication of this appeal. This Court should deny both the instant Motion and the February 7 motion and either dismiss Appellant’s appeal or order him to finalize his submissions to this Court without further delay.

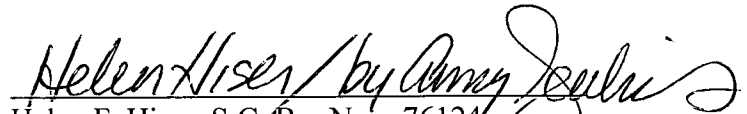
CONCLUSION

For the reasons stated herein, Respondents respectfully request that this Court deny Appellant’s Motion.

Respectfully submitted,

February 19, 2018

McANGUS GOUDELOCK & COURIE LLC



Helen F. Hiser, S.C. Bar No.: 76124
735 Johnnie Dodds Blvd., Suite 200 (29464)
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Amazon.Com DEDC,
LLC and American Zurich Ins. Co.*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1303989

RECEIVED

FEB 22 2018

SC Court of Appeals

Clarence B. Jenkins, Employee, Appellant,

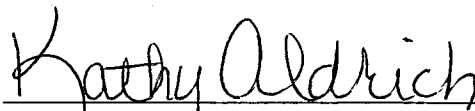
v.

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

PROOF OF SERVICE

I certify that on the 19th day of February 2018, I served the Respondents' **Return in Opposition to Appellant's Motion to Submit Additional Documents and Allegations of Violations** on Clarence B. Jenkins, *pro se*, by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

Clarence B. Jenkins
945 Wire Road
Neeses, South Carolina 29107



Kathy Aldrich
Legal Assistant to Helen F. Hiser
McAngus, Goudelock & Courie LLC
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Amazon.Com DEDC,
LLC and Zurich Ins. Co*

Reply To

HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com

February 19, 2018

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
FEB 22 2018
SC Court of Appeals

RE: Clarence B. Jenkins v. Amazon.com and Insurance Company of the State
of Pennsylvania c/o Sedgwick Claims Management Services, Inc.
Date of Accident: February 10, 2013
WCC File No.: 1303989
Our File No.: 20194.13164
Claim No.: 30130262998
Appeal No.: 2016-000598

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Return in Opposition to Appellant's Motion to Submit Additional Documents and Allegations of Violations, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the self-addressed, stamped envelope.

If you have any questions, please do not hesitate to contact me.

Yours truly,

McAngus Goudelock & Courie, LLC

Helen Hiser / by Amy Jenkins
Helen F. Hiser

Enclosures

cc: Clarence B. Jenkins, *pro se*



mgc

INSURANCE
DEFENSE

POST OFFICE BOX 12519
COLUMBIA, SC 29211

20194.13164/HFH/kea

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
FEB 22 2018
SC Court of Appeals