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JAN 14 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION

WCC No. 1711399 and Appellate Case Number 2018-002174

Placido Solano-Pulido, Employee/Claimant Respondent,

v.

Gerald Builders of Conway, Inc., Esteban Vera Reyes d/b/a Esteban Construction, Employer;
and South Carolina Uninsured Employers' Fund, Carrier..... Appellants.

PETITION FOR REHEARING

This petition is filed pursuant to Rules 221 and 240 of the South Carolina Appellate Court Rules. Rule 221 governs rehearing petitions. Rule 240 governs motions and petitions.

The Court issued its decision dismissing this Appeal on January 3, 2019. This petition is timely under Rule 221(a).

Respondent respectfully submits the Court may have misunderstood this case and its procedural history in dismissing this Appeal.

In its Order dismissing the Appeal, the Court states:

“This appeal arises out of an order of a single commissioner denying the appellant’s motion to reinstate at the Workers Compensation Commission. The single commissioner’s decision does not appear to have been appealed to an appellate panel of the Commission”

That description is not accurate. This matter was heard by the Full Commission on November 24, 2018. The Appellant has exhausted its administrative remedies and has no further recourse other than an appeal in this Court.

This case was heard on the merits by the Single Commissioner on March 22, 2018 pursuant to a Form 50 Request for Hearing filed by the Claimant. The issues at the Hearing were whether the Claimant was employed on the date of the accident and whether he sustained a compensable injury to his right leg, back, right shoulder and right arm when he slipped off a roof upon which he was working. The Single Commissioner issued an Order that was signed on August 7, 2018.

Subsequently, Gerald Builders, Esteban Construction and the South Carolina Uninsured Employers Fund *timely* filed appeals to the Full Commission of the South Carolina Workers Compensation Commission.

On October 29, 2018, Amy Bracy, an employee of the South Carolina Worker's Compensation Commission, dismissed all three appeals stating that the appellate briefs to the commission's appellate panel were not timely filed pursuant to R. 67-705 (H)(3).

Gerald Builders, Esteban Construction and the South Carolina Uninsured Employers Fund then filed separate motions to reinstate the appeals.

The Full Commission denied all three Motions without a hearing on November 24, 2018. (See Exhibit A, signed by Commissioner T. Scott Beck and concurring by Commissioners Barden, Taylor, Wilkerson and Campbell.)


Thereafter, Gerald Builders, Esteban Construction and the South Carolina Uninsured Employers Fund filed timely appeals to the South Carolina Court of Appeals.

The posture of this case is thus similar to the hypothetical situation where the clerk of this Court administratively dismissed an appeal for a party not filing a brief and a judge of the court subsequently denied a motion to reinstate the appeal. There is no further review available at the commission, just as there would be no further review available in that situation at this Court.

CONCLUSION

Because the Respondent has exhausted its administrative remedies within the South Carolina Workers Compensation Commission when the Full Commission rendered its decision and has been aggrieved by a final decision in a contested case, the Court should grant this petition and reinstate this Appeal.

RESPECTFULLY SUBMITTED,



Natasha M. Hanna, Esq.
The Law Office of Natasha M. Hanna, P.C.
Attorney for Appellant/Gerald Builders
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January 9, 2019
Myrtle Beach, SC

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v.

Gerald Builders of Conway, Inc., Esteban Vera Reyes d/b/a Esteban Construction, Employer; and
and South Carolina Uninsured Employers' Fund, CarrierAppellants.

PROOF OF SERVICE

I certify that I have served the Notice Appeal upon the parties below by depositing a copy of
it in the United States Mail, postage prepaid, this 14th day of January, 2019 to the address below:

Jonathan J. Shanks, Esq.
Jonathan J. Shanks, P.A.
P.O. Box 14889
Surfside Beach, SC 29587

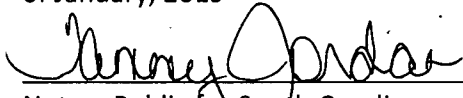
Timothy B. Killen, Esq.
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Mount Pleasant, SC 29464

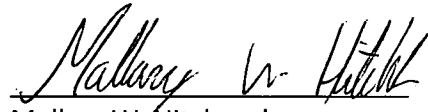
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Amy Bracy
Judicial Director
South Carolina Workers' Compensation Commission
P.O. Box 1715
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SWORN to before me this 11th day
of January, 2019


Notary Public for South Carolina
My Commission Expires: 2/3/27


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NATASHA HANNA
LAW OFFICE

VIA FEDERAL EXPRESS

January 10, 2019

The Honorable Jenny Abbot Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: Placido Salido vs. Gerald Builders of Conway, et. al.
WCC No. 1711399

Dear Ms. Kitchings:

Enclosed please find an original and one (1) copy of a Petition for Rehearing and Proof of Service. Please return a clocked copy to us in the self-addressed, stamped envelope provided. Also enclosed please find a check for \$50.00 for the filing fee. By copy of this letter, I am serving Respondents and the South Carolina Workers' Compensation Commission.

Thank you for your assistance in this regard. If you have any questions, please do not hesitate to contact me.

With warm regards, I am

Very truly yours,

Natasha M. Hanna

NMH/mwh

Enclosures

cc: Amy Bracy, SCWCC
Jonathan J. Shanks
Gene Connell
Timothy B. Killen
Lisa Glover

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