

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APR 15 2019

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1607281

Willie Carroll Powell, Employee,Appellant,

v.

Johnsonville Mechanical Contractors, Inc.,
Employer, and Bridgefield Casualty Insurance
Company c/o Summit, Carrier, Respondents.

**MOTION FOR CORRECTION OF
RECORD ON APPEAL**

Pursuant to Rules 210 and 240, SCACR, Respondents Johnsonville Mechanical Contractors, Inc. and Bridgefield Casualty Insurance Company c/o Summit hereby move this Court to order Appellant Willie Carroll Powell to correct and/or supplement the Record on Appeal that was served on Respondents on April 8, 2019. Pursuant to Rule 210(c), SCACR, “[t]he Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267.” The Record needs to be corrected and/or supplemented in the following respects:

- the Record is missing the attachment to Claimant’s Form 58 Pre-Hearing Brief, dated Nov. 20, 2017, which Respondents designated in ¶13 of their Designation of Matter to be included in the Record;
- the Record is missing pages 5-8, 15, and 16 of the Transcript of the Appellate Panel Hearing dated Sept. 18, 2018, which Respondents designated in ¶18 of their Designation of Matter to be included in the Record;

- the Record is missing part of the March 18, 2017 APAs pp. 51-54, which Respondents designated in ¶21 of their Designation of Matter. The pages that appear at pp. 209-211 and 213 of the Record are not the correct pages; instead, the correct pages are attached here to as Exh. A.¹

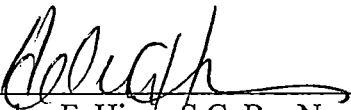
On January 30, 2019, Respondents filed a Motion to Require Appellant to Order the Transcript of the Hearing Before the Appellate Panel of the Full Commission, which Appellant opposed. While this Court has not yet ruled on that Motion, pursuant to Rule 210(c), SCACR, Appellant is required to include in the Record "all matter designated to be included by any party." Respondents cite to the Full Commission transcript and have designated it for inclusion in the Record on Appeal. Respondents cannot complete their final Brief until Appellant corrects the Record by including the materials identified above and, as a result, Respondents request that this Court order him to do so.

Respondents further request this Court to order that their final Brief in this appeal is not due until after the Record on Appeal has been corrected or supplemented as described above.

Respectfully submitted,

April 11, 2019

McANGUS GOUDELOCK & COURIE LLC



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

*Attorneys for Respondents Johnsonville Mechanical
Contractors, Inc. and Bridgefield Casualty
Insurance Company c/o Summit*

¹ Although pages 212 and 214 of the Record are labeled as pages 52 and 54 of the designated March 18, 2017 APAs, those pages, (212 and 214) are actually pages 49 and 50 of the designated March 18, 2017 APAs. However, as Respondents were able to locate the relevant pages within the Record, they are not including them within their request for corrections.

DEFENDANTS' INDEX TO APA SUBMISSIONS

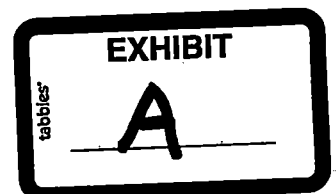
Carroll Powell vs. Johnsonville Mechanical Contractors, Inc.

WCC FILE NO.: 1607281

HEARING DATE: March 30, 2017

Our File No. 20512.16092

APA#	RECORDS OF:	DATES	PAGES
16.	Pee Dee Family Practice	02/27/2009 – 04/08/2016	48-58
17.	Neurology Specialists of Charleston	08/19/2016	59
18.	Pee Dee Orthopaedic Associates	02/02/2017	60-62
19.	Payroll Records of Claimant	January 2015 – December 2016	63-86



C. P. [Signature]

DATE:	8-09-2010
WEIGHT:	138 1/2 lbs
TEMP:	98.1
BP:	160/94 P: 80
PAIN LEVEL:	7/10

X NO RISK

C/O: 1WK F/W

PATIENT NAME: Powell, Willie C.
 DATE: 08/09/10
 MM: 21980

S: The patient comes in today for one-week followup. We are following up on a right knee pain that occurred a little over two weeks ago due to a four-wheeler accident. The patient fell off a four-wheeler and landed on his right knee. We have been doing conservative treatment, keeping him out of work, wearing a wrap, elevating, taking antiinflammatories, and pain medication. The patient has had decreased range of motion due to pain and is having a hard time with feet. He states that the knee has been popping and it does not really catch but has also been swelling still.

O: On physical examination, this is a well-appearing and well-nourished 44-year-old white male. His vitals are within normal limits. Head is normocephalic and atraumatic. Heart is regular rate and rhythm. Lungs are clear to auscultation. The patient's right knee appears the same as the left. There is no swelling at this time. If he does any sort of torsion with the lower leg, he gets medial joint pain of the knee. No point tenderness to the knee. He has decreased range of motion, and may not certainly be due to the pain now.

A: Right knee pain and swelling.

P: We are sending the patient for an MRI of his right knees on Wednesday. I will call him when I have results back; however, they were going to an orthopedic consult. I did write him out for another week off work.

[Signature]
 Rebecca Zerwick, P.A.

RZ/fts

C. Parks

DATE	8/16/2010
WEIGHT	140 lbs
TEMP	97.3
BP	148/97 P.74
PAIN LEVEL:	5

C.O. rlv

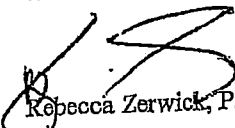
PATIENT NAME: Powell, Willie C.
 DATE: 08/16/10
 MM: 21980

S: The patient comes in today for one-week followup. He has been keeping really out of work for the last three weeks due to a four-wheeler accident causing right knee pain and he has had very decreased range of motion. His gait has been altered. He states that he is feeling better but is still not where it needs to be. His range of motion has improved, but he does it very slowly, still tender. We had gotten an MRI, I have not received results yet. It did come through during the patient's consult, so we discussed those results and our further recommendation.

O: Physical examination, this is a well-appearing and well-nourished 44-year-old white male. His vitals are within normal limits. Head is normocephalic and atraumatic. Heart is in regular rate and rhythm. Lungs are clear to auscultation. The patient's right knee appears as same as the left. His range of motion is improving, but again he does it very slowly due to the pain. There is no swelling. Tendons are intact. Distally, everything is normal and intact. MRI was within normal limits. It showed maybe a bit of old degenerative signal to the medial meniscus.

A: Right knee pain.

P: He is to continue to stay out of work for another week. I discussed with the patient rather he go to orthopedic at this time, but he states that he feels like he is getting a little better, so we would like to try another week before going of to orthopedic.


 Rebecca Zerwick, P.A.

RZ/fts

C.R. [Signature]

DATE:	8-23-2010
WEIGHT:	140 lbs
TEMP:	97.3
HT:	172/96 P:8
IMMUN	5
LEVEL:	10

NO RISK ✓

PATIENT NAME: Powell, Willie C.
 DATE: 08/23/10
 MM: 21980

S: The patient comes in today for a one-week followup for his right knee pain. Approximately a month ago, the patient was in a four-wheeler accident, four-wheeler rolled landed on his knee, also caused some torsion motion. We have been monitoring the patient. We did an MRI, which was normal. The patient does not want to see an orthopedist and he would like to go back to work. He states he is doing well otherwise. I have also noticed that he has high blood pressure. We did discuss this with the patient today. He denies chest pain, shortness of breath, any other problems headaches, syncopal episodes, and arterial insufficiency. He does smoke.

O: Physical examination, this is a well-appearing and well-nourished 44-year-old white male. His vitals, blood pressure is 152/96. Head is normocephalic and atraumatic. Heart is in regular rate and rhythm. Lungs are clear to auscultation. No carotid bruits. No extremity edema. The patient's right knee appears the same as the left. With range of motion, he really does not have any crepitus. The left knee does have some crepitus. He has no point tenderness. Tendons are intact. His range of motion is still decreased due to some pain. His gait is improving, but he is still not flexing that knee. He is walking more of a straight and when he stands up for me he does not seem like he is putting all of his weight down on his leg.

A: Right knee pain and hypertension.

P: We will keep the patient out of work another week. He can go back next week. He will let me know how he is doing. I need to follow up with him if things do not improve. We did discuss again going to orthopedist, at this time he does not want to. For his blood pressure, we are starting lisinopril 10 mg one p.o. daily. He needs to follow up in three weeks for blood pressure recheck and CMP and lipid.

[Signature]
 Rebecca Zerwick, P.A.

RZ/fts

Date of Service: 10/24/14 Time: 12
 Patient Name: Willie Powell
 Weight: 181 lbs.
 Height: _____
 Temp: _____
 B/P: R / P

C/O: high BP,
discuss med.
 Pain scale: _____ (1-10)
 Fall risk: Yes No
 Provider: Decamps
 Clinical Staff: DM

WILLIE POWELL DOB: 6-26-66 10-24-14

SUBJ: Mr. Powell presents today with several concerns. He is having severe arthritic discomfort, particularly right knee. I reviewed his records in detail. He has elevated cholesterol, started on Lipitor. Has not had his blood work rechecked. For BP, he is on Lisinopril.
 PE: Lungs are clear. Ausc of heart reveals a RRR. Moderate crepitus with ROM of his right knee. He had surgery about 12 years ago, and I think it is definitely arthritic changes.
 PLAN: I will treat him with Diclofenac 75 mg. Wrote him some Narco 10/325, #90, 1 t.i.d. prn pain to only use as needed with drowsiness precautions. Wrote him a month's supply and 12 RF of his Lisinopril 10 and Lipitor 10. Check a lipid panel and comprehensive panel with additional plans depending upon results. (DANIEL E. DeCAMPS, M.D./ws)

PEE DEE FAMILY PRACTICE

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 David W. Moon, M.D. DEA NO. AM8838015 S.C. Lic. 9839
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 Lisa Castles, P.A. DEA NO. MC2086785 S.C. Lic. 432FP
 Courtney Stanley, P.A. DEA NO. MS2100155 S.C. Lic. 1297FP
 Stephen W. Askins, M.D. DEA NO. BA8403266 S.C. Lic. 24916
 M. Steve Fowler, Jr., M.D. DEA NO. AF0337546 S.C. Lic. 5015

Patient's Name Carol Paul
 Address _____
 Date 10/24/14

Rx	LABEL ALL Rx's	MG or CC	No.	SIG	REFILL
	<u>Diclofenac</u>	<u>75</u>	<u>90</u>	<u>10/325</u>	<u>12</u>
	<u>Lisinopril</u>	<u>10</u>	<u>12</u>	<u>10</u>	<u>12</u>
	<u>Lipitor</u>	<u>10</u>	<u>12</u>	<u>10</u>	<u>12</u>

TOTAL No. _____ M.D. _____ M.D.
 Rx's _____
 #050913 DISPENSE AS WRITTEN SUBSTITUTION PERMITTED

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WORKERS' COMPENSATION COMMISSION

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Willie Carroll Powell, Employee, Appellant,

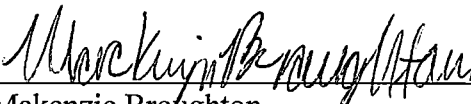
v.

Johnsonville Mechanical Contractors, Inc.,
Employer, and Bridgefield Casualty Insurance
Company c/o Summit, Carrier, Respondents.

PROOF OF SERVICE

I certify that on the 11th day of April 2019, I served the Respondents' **Motion for Correction of Record on Appeal** on Willie Carroll Powell by depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record:

Thomas W. Greene, Esq.
P.O. Box 688
Johns Island, SC 29457



Makenzie Broughton
Legal Assistant to Helen F. Hiser
McAngus, Goudelock & Courie LLC
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*Attorneys for Respondents Johnsonville Mechanical
Contractors, Inc. and Bridgefield Casualty
Insurance Company c/o Summit*

Reply To

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

April 11, 2019

RECEIVED
APR 15 2019
SC Court of Appeals

Via U.S. Mail

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

RE: Carroll Powell vs. Johnsonville Mechanical Contractors, Inc. and Bridgefield
Casualty Insurance Company c/o Summit
Date of Accident: May 3, 2016
WCC File No.: 1607281
Our File No.: 20512.16092
Claim No.: 0196-115-28386-0000-102810
Appeal No.: 2018-002152

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion for Correction of Record on Appeal, 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 enclosed self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$50 for filing the motion.

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

Yours truly,

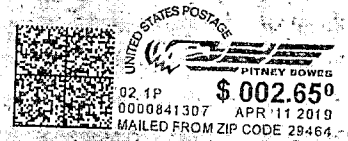
McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: Thomas W. Greene, Esq.



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mgc | INSURANCE
DEFENSE

20512.16092/ HFH/mtb
The Honorable Jenny Abbott Kitchings
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