

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS COMPENSATION COMMISSION
FULL COMMISSION

Case No.: 2018-002152

Willie Carroll Powell, Employee,

Appellant,

RECEIVED

v.

MAY 17 2019

Johnsonville Mechanical Contractors, Inc., Employer,

SC Court of Appeals

and

Bridgefield Casualty Insurance Company c/o Summit, Carrier,

Respondents.

SUPPLEMENTAL RECORD ON APPEAL

Thomas W. Greene, Esquire
PO Box 688
Johns Island, SC 29457
(843) 556-7273
(888) 411-1896 Fax

ATTORNEY FOR APPELLANT

Helen F. Hiser, Esquire
McAngus Goudelock & Courie, LLC
PO Box 650007
Mount Pleasant, SC 29465

J. Brandon Hylton, Esquire
McAngus Goudelock & Courie, LLC
PO Box 7489
Florence, SC 29502

ATTORNEY FOR RESPONDENT LLC

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C. [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/M

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 knee 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 Zarwick, P.A.

RZ/fts

C. Parks

DATE
WEIGHT
TEMP
BP
PAIN
LEVEL:

8/16/2010
 140 lbs
 97.3
 148/97 P.74

C.O. rlv

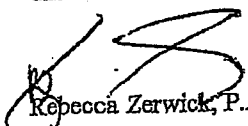
PATIENT NAME: Powell, Willie C.
 DATE: 08/16/10
 MM: 21980

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:	97.5
BP:	142/96 P.8
HAIR:	
LEVEL:	5 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: 151 lbs.

Height: _____

Temp: _____

B/P: R 1 P _____

C/O: high BP,

discuss med.

Pain scale: _____ (1-10)

Fall risk: Yes No

Provider: DeCamp

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

276 N. Ron McNair Blvd., Lake City, SC 29560, Phone (843) 394-5471 • 625 S. Georgetown Hwy., Johnsonville, SC 29555, Phone (843) 386-3108

David W. Moon, M.D. DEA NO. AM8838015 S.C. Lic. 9839
Daniel E. Decamps, M.D. DEA NO. AD1697234 S.C. Lic. 11414
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. BA8403286 S.C. Lic. 24916
M. Steve Fowler, Jr., M.D. DEA NO. AF0337546 S.C. Lic. 5015

Patient's Name Willie Powell
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>1 t.i.d. prn pain</u>	<u>1</u>
	<u>Narco</u>	<u>10/325</u>	<u>90</u>	<u>1 t.i.d. prn pain</u>	<u>1</u>
	<u>Lisinopril</u>	<u>10</u>	<u>12</u>	<u>1 t.i.d.</u>	<u>1</u>
	<u>Lipitor</u>	<u>10</u>	<u>12</u>	<u>1 t.i.d.</u>	<u>1</u>

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



Claimant's Name: <u>Willie Carroll Powell</u>	Employer's Name: <u>Johnsonville Mechanical Contractors, Inc.</u>
Address: <u>736 Macks Lake Rd.</u>	Address: <u>PO Box 97</u>
City: <u>Johnsonville</u> State: <u>SC</u> Zip: <u>29555</u>	City: <u>Johnsonville</u> State: <u>SC</u> Zip: <u>29555</u>
Home Phone: () - - Work Phone: () - -	Carrier: <u>Bridgefield Casualty Ins. Co. c/o Summit</u>
Preparer's Name: <u>Thomas W. Greene</u>	Preparer's Phone #: <u>(843) 556-7273</u>

A claim for workers' compensation benefits is made based on the following grounds:

X Injury Illness Repetitive Trauma

1. Compensation Rate: \$457.20 2. AWW: \$685.76 Date of Injury: 05/03/16
3. Type of injury and body part(s): Claimant injured his back and right leg\radiculopathy (numbness and tingling in foot and toes)
4. Facts in controversy: See attached
5. Legal Issues involved: Additional medical care for back and leg. Designate Dr. William Naso as authorize treating physician. Imposition of penalties for adjuster's denial of medical treatment to which Claimant is entitled under the Act. Reimbursement for MRI and appointment with Dr. Naso-both ordered by authorized treating physicians.
6. Unusual aspect Authorized physician order MRI for back. Claimant had to pay-\$2212.91 & and to see Dr. Naso \$300.00
7. Witnesses (designate if expert):* Willie Carroll Powell; Lynn Miles
8. Exhibits: All APA Submissions attached, hereto.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
All APA Submissions attached, hereto.
10. Name, address, and specialty, if any, of the treating physician: Pee Dee Family Practice, Daniel E. DeCamps, M.D.; Pain Specialists of Charleston, David Stickler, M.D.; Lake City Community Hospital; Southeastern Spine Institute, Steven C. Poletti, M.D.; Pee Dee Orthopaedic Associates; Patrick K. Denton, M.D.; Florence Neurosurgery & Spine, William Naso, M.D.
11. Impairment rating(s); body part(s); physician and date of opinion: 10% whole person by Steven C. Poletti, M.D., on 10/20/16. "I do think that he has an impairment currently to be 10% to the whole person, potentially higher should this causalgia or persistent swelling and edema remain permanent as a consequence of this."
12. I am amending my Form 50/51 in the following manner:

Mediation

- a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- b. Mediation is required pursuant to Reg. 67-1802.
- c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to J. Brandon Hylton, Esquire, McAnugus Goudelock & Courie Address PO Box 7489, Florence, SC 29502 on the 20th day of November 2017, by:
X first class postage certified mail personal service electronic service

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature: [Signature] Email: tomgreene925@gmail.com
Date of hearing: November 30, 2017 Time needed for hearing: 1 hour

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67- through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not submit medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

FACTS IN CONTROVERSY

ADJUSTER'S INTENTIONAL DENIAL OF NEEDED MEDICAL CARE

Carroll Powell, prior to his injury on May 3, 2016, had worked for the Employer for 16 years. He is 51 years old and he is a pipe fitter by trade. On the day he was injured he was working at elevation and had his legs hooked under a pipe leaning back to assist another worker. When he pulled up utilizing his legs for leverage, he felt a sharp pain and pulling sensation in his right leg. Within a short time he experienced pain in his back and lower extremities. (APA 1, p.2) He was first seen by the company doctor, Daniel E. DeCamps, M.D. 5/27/16

The Insurance Carrier's adjuster is Kiema Lewis. She initially paid one or two weeks of temporary total disability benefits but then denied his claim and its entirety. Subsequently, she accepted his right leg as compensable but denied his back injury. She also wrongfully stopped his temporary total disability benefits for 90 days - she did not comply with the statute - and eventually had to pay him his back benefits.

On July 21, 2015, Claimant came under the care of authorized treating physician, David Stickler, M.D., a neurologist in Charleston, South Carolina. He reported pain in his lower back which radiated into his left leg but the right leg was more severe. On August 19, 2016, Dr. Stickler stated, "These changes could be secondary to a neurogenic process involving his lumbar spine and an MRI of the lumbar spine has been requested to evaluate further." (APA 2, p.19) The Carrier's adjuster refused to authorize the MRI. Claimant obtained the MRI on October 3, 2016, and still owes \$ 2,212.91. On October 20, 2016, he was seen by Steven C. Poletti, M.D., with Southeastern Spine Institute. After examination and evaluation of the MRI it was Dr. Poletti's opinion that there is a disc protrusion at L5-S1 caused by his work related injury. Dr. Poletti recommended among other things an epidural injection. (APA 4, p.49) The Carrier's adjuster was made aware of this recommendation and refuses to authorize the injection.

On May 9, 2016, Mr. Powell was next seen by Patrick K. Denton, M.D., an authorize treating physician by Consent Order. In his report he stated that Claimant has a, "neurologic injury most likely to the peroneal nerve or at the tibial nerve peroneal nerve junction." EMG nerve conduction study was recommended. Dr. Denton also said, "I believe he continues to have radicular pain in his lower extremity but has no internal knee pathology. He may benefit from selective nerve block to see if this would lessen his symptoms... I think his work up should be continued with either neurology or possibly neurosurgery for peripheral nerve

injury." (APA 3, p.23) (The peroneal nerve controls lower extremity below the knee. (APA 11, pp. 65-66) On June 27, 2017, Dr. Denton referred Claimant to William Naso, M.D., with Florence Neurosurgery. (APA 3, p.25) This referral was faxed to adjuster, Kiema Lewis on July 3, 2017. The adjuster refused to authorize the appointment. On August 9, 2017, Dr. Denton once again referred Claimant to Dr. Naso and the referral stated, "Diagnosis: Herniated intervertebral disc of lumbar spine and Peroneal nerve injury, left, subsequent encounter." (APA 3, p.33) Again, adjuster refused to authorize the appointment.

Also, on August 9, 2017, Dr. Denton stated under the heading, "ASSESSMENT:1. Injury of unspecified nerve at hip and thigh level, unspecified leg, sequela." (APA 3, p.24) Again, on August 14, 2017, the referral to Dr. Naso was forwarded to adjuster, Kiema Lewis and she once again refused authorize the appointment.

Since the insurance adjuster, Kiema Lewis, denied Dr. Denton's referral to Dr. Naso, Claimant on October 11, 2017, at a cost of \$300, obtained an appointment with Dr. Naso. After seeing the Claimant it was Dr. Naso's, "ASSESSMENTS:1. Spinal stenosis of lumbar region without neurogenic claudication. 2. Right lumbar radiculopathy. 3. Lumbar degenerative disc disease." Dr. Naso recommended a complete course of physical therapy for 4 to 6 weeks and a L5/S1 epidural injection. (APA 5, p.51) He has also opined that Claimant's back and leg problems are causally related to his job injury. (APA 5, p.52-A) Adjuster, Kiema Lewis was contacted by Dr. Naso's office and she refused authorize any of the treatment recommended by Dr. Naso.

It has been approximately 18 months since Claimant was injured. At no time has he been able to obtain any of the medical treatment recommended by various providers - both authorized and unauthorized. This lack of treatment is directly related to the insurance adjuster, Kiema Lewis' arbitrary and unreasonable refusal to authorize any treatment whatsoever for the Claimant.

An example of the pure arbitrariness of the adjuster's actions in denying Claimant medical treatment is the fact that on Wednesday, August 16, 2017, I wrote to the Attorney for the Carrier, Brandon Hilton, and stated that I just learned that Dr. Denton had made a referral to Dr. William Naso. (First referral was June 27, 2017.) In response Mr. Hilton stated, "We are not referring to Dr. Naso at this time. Rather, we are proceeding with the deposition of Dr. Denton to clarify treatment recommendations." (APA 7, p.57) Dr. Denton's deposition was on November 1, 2017, and the undersigned asked him if at any time from when he first made the referral to Dr. Naso to the date of his deposition had anyone including the adjuster called him to inquire about the basis of his "treatment

recommendations" and he said no. (Depo. p.14, l.16 & p.15, l.12) If the adjuster really wanted to know the basis of his referral a simple letter or telephone call could have clarified the reason for his recommendation although it is clearly stated in his report.

DEPOSITION OF PATRICK DENTON, M.D.
NOVEMBER 1, 2017

Dr. Denton explained the reason for his referral to Dr. Naso as follows: "I knew he had a injury or that nerve was affected. The location of the affliction could be approximately up higher or down at the knee joint. At that time I didn't know I didn't know if he had... excuse me if he had any disc herniation or anything up higher but the neurosurgeons also deal with peripheral nerve injuries and that's why I picked them to say, look at this and see what you think." (Depo. p.8, ll. 3-11) [This is the same thing that Dr. Stickler was trying to determine months earlier when he ordered the MRI.] Also, Dr. Denton confirmed that the delay in treatment of the Claimant could reduce the chance of him making a full recovery. (Depo. p. 11, l.8-p.13, l.12)

STATE OF SOUTH CAROLINA
BEFORE THE WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1607281

Wille Carroll Powell

Claimant,

vs.

Johnsonville Mechanical Contractors,
Inc.,

Employer,

Bridgefield Casualty Ins. Co. c/o
Summit,

Carrier,
Defendants.

NOTICE OF WITNESSES AND
WRITTEN MEDICAL REPORTS
TO BE INTRODUCED AS DIRECT
EVIDENCE ON BEHALF OF
CLAIMANT

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND J. BRANDON HYLTON, ESQUIRE,
ATTORNEY FOR DEFENDANTS:

YOU ARE HEREBY NOTIFIED THAT THE CLAIMANT pursuant to the provisions of the South Carolina
Workers' Compensation Act and S.C. Code Ann. §1-23-330 (1985), herewith submits the following
reports/physician or other evidence on behalf of the Claimant, to wit:

<u>NAME OF PHYSICIAN/OTHER</u>	<u>DATE OF REPORT</u>	<u>PAGE NUMBERS</u>
1. Pee Dee Family Practice Daniel E. DeCamps, M.D.	05/27/16-09/09/16	1-6
2. Pain Specialists of Charleston David Stickler, M.D.	07/21/16-09/06/16	7-20
3. Pee Dee Orthopaedic Associates Patrick K. Denton, M.D.	03/01/17-08/15/17	21-47
4. Southeastern Spine Institute Steven C. Poletti, M.D.	10/20/16	48-49
5. Florence Neurosurgery & Spine Center Dr. William Naso	10/11/17 11/14/17	50-52 52-A
6. Lake City Community Hospital-MRI	10/13/16	53-54
7. E-mails to Brandon Hylton, Esquire	08/16/17-08/21/17	55-58
8. Cost for IME with William Naso, M.D.	09/26/17	59
9. Lake City Community Hospital-Bill for MRI Carolina Radiology Associates	10/13/16 10/13/16	60-61 61A
10. Referral for Physical Therapy from Florence Neurosurgery & Spine Center	10/11/17	62-64
11. Definition of Peroneal Nerve Injury (Foot Drop)		65-66
12. Deposition-Patrick K. Denton, M.D.	11/01/17	67-74

YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination; and, should
you desire to exercise said right, you are to forthwith schedule the deposition(s) of any physicians or
other person(s) whose reports are submitted, for the purposes of cross-examination.

By this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not
medical reports.
Commissioners reserve the right to admit expert witnesses at hearings.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, will be submitted at the Hearing before the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Claimant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant.



THOMAS W. GREENE
PO BOX 688
JOHNS ISLAND, SC 29457
(843) 556-7273; (888) 411-1896 (Fax)
ATTORNEY FOR CLAIMANT

Charleston, South Carolina

November 20, 2017

file this form and proof of service on the opposing party according to R. 67-611 and R. 67-212. Do not send medical reports.
Commissioners reserve the right to admit expert witnesses at hearings.

**INDEX OF APA SUBMISSIONS
OF THE CLAIMANT, CARROLL POWELL
W.C.C. FILE NO.: 1607281**

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1 Now, on May 9, 2016 Dr. Denton who's an
2 orthopedist in Florence said in his note,
3 lateral three toes non-difficult elevating his
4 foot. MRI should show degenerative changes L5,
5 S1. He has neurologic injury, most likely to
6 peroneal nerve or the tibial nerve, peroneal
7 nerve junction. The tibial nerve being the
8 large nerve continuation to the sciatic nerve.
9 I believe he continues to have radicular pain
10 in his lower extremity. May benefit from nerve
11 blocks to see if this would lessen his
12 symptoms. Dr. Denton, thereafter, referred the
13 claimant to Dr. William Naso, a ---

14 **COMMISSIONER BECK:** Let me stop you a second because
15 I think -- I want to make sure we clear up
16 something on my Order.

17 **MR. GREENE:** Okay.

18 **COMMISSIONER BECK:** My Order specifically was for
19 the right leg because you withdrew the back
20 claim at that hearing. And therefore -- I'm
21 reading it right in front of me, sir. It says,
22 it is ordered that the claimant sustained a
23 compensable injury to the right leg as a result
24 of a work injury. And it's also mentioned in
25 here, the back injury claim is not properly



1 before the Commission.

2 **MR. GREENE:** That's correct.

3 **COMMISSIONER BECK:** So the medical, by default,
4 could only be ordered for the right leg.

5 **MR. GREENE:** It doesn't say that. The Order doesn't
6 say that. It says, authorized -- okay, that's
7 fine. If that's the way you interpreted it, I
8 guess that's the way ---

9 **COMMISSIONER BECK:** That's certainly the way I meant
10 it.

11 **MR. GREENE:** Huh?

12 **COMMISSIONER BECK:** Certainly the way it was meant.

13 **MR. GREENE:** Well it might have meant that way but
14 it doesn't read that way.

15 **COMMISSIONER BECK:** All right. Please proceed.

16 **MR. GREENE:** Anyway, the -- Dr. Denton's office
17 referred the claimant to Dr. William Naso who
18 is a neuro-surgeon in Florence. Once again the
19 adjustor refused to authorize the treatment.
20 And the client again borrowed \$300 to go see
21 Dr. Naso who recommended epidural injections,
22 physical therapy. The same had been
23 recommended by Dr. Poletti. This man's been
24 two years and three months since he was
25 injured. He's never had one day of physical



1 therapy, never had one epidural, he's never had
2 any medical treatment whatsoever. He's been in
3 pain, he has a food drop. No definitive
4 treatment has ever been rendered. And the
5 reason is because this adjustor made up her
6 mind at the beginning that he wasn't going to
7 develop a back sling out of this thing and
8 that's the whole situation. Whether you
9 believe it or not, there's no reason for a man
10 to go two years and three months without any
11 definitive treatment because it's never been
12 determined -- for one thing epidural injections
13 are a way to determine the level of nerve
14 involvement. If you do it at L5, S1 you get
15 relief, you know the problem's at L5, S1. And
16 there's never been that, nothing of that
17 nature. So if you don't think that Order
18 requires her to allow that medical treatment,
19 I guess ---

20 **COMMISSIONER BECK:** Mr. Greene, how could it -- how
21 could it possibly mean to provide medical
22 treatment for the back when you clearly
23 withdrew the back at that hearing?

24 **MR. GREENE:** How -- he was not at maximum medical
25 improvement. The issue -- there was an issue



1 as to the back, whether or not -- and you gave
2 me the opportunity to further develop that
3 claim.

4 **COMMISSIONER BECK:** That's right.

5 **MR. GREENE:** All right.

6 **COMMISSIONER BECK:** Prove the compensability of it.

7 **MR. GREENE:** Yeah. So if he's authorized for
8 medical treatment -- the medical treatment that
9 was denied related to the diagnostic process of
10 trying to determine what in fact where the
11 level of his pain was. That relates to the
12 leg. He has pain in his leg that goes up into
13 his back, they order these tests and this
14 referral to see if there's another level that's
15 involved. Why isn't that authorized treatment?
16 You know? It was -- if they -- in other words,
17 if your interpretation is the only thing the
18 doctor could have done was to treat the right
19 leg, if there was a question about whether or
20 not there were other body parts involved, he
21 would not have been authorized to pursue that,
22 which would have been a violation of medical
23 ethics for not following through on what he
24 thought might possibly be a diagnostic
25 procedure that would reveal the problem the man



1 his back with Dr. Edwards. Dr. Edwards found
 2 that the back was -- back injury was not
 3 related to the work accident. The claimant
 4 refused to bring forward a claim at the prior
 5 hearing. Dr. Denton treated the claimant for
 6 his right lower leg and made a referral -- he
 7 made a referral for the peroneal nerve only.
 8 Instead of waiting for the clarification of Dr.
 9 Denton, claimant's attorney moved forward with
 10 unauthorized treatment with Dr. Naso, and Dr
 11 Naso's hypothetical is not supported by the
 12 preponderance of the medical evidence.
 13 Therefore the claimant failed to meet his
 14 burden of proof that his back injury was
 15 related to the alleged work accident, thus the
 16 single Commissioner's Decision Order should be
 17 upheld in its entirety. Thank you.

18 **COMMISSIONER WILKERSON:** Thank you. Three minutes
 19 in reply.

20 **REPLY BY MR. GREENE:**

21 **MR. GREENE:** The back was adjudicated this hearing
 22 this is on appeal. It's just that it was done
 23 because there was no evidence that we were able
 24 to present because we were prevented from doing
 25 so. I'd like to -- this is a quote from Dr.



1 Denton. You can pick and choose his deposition
2 like you can pick corn off the ground with a
3 chicken. But it says, injury of unspecified
4 nerve at hip and thigh level unspecified leg
5 quality. And I still say that -- I'm not a
6 doctor but if I've got a client that has a leg
7 injury and he's complaining of pain all the way
8 up his leg into his back, what am I supposed to
9 do? I try to determine what level that pain is
10 coming from. And that, I believe, does fall
11 under your Order, sir. Because that was
12 authorized treatment dictated by medical
13 necessity, medical protocol. But the problem
14 is, and the monkey in the room here is I wrote
15 a letter to this adjuster's boss complaining
16 about her treating my client the way she was
17 treating him jerking him around. And that's
18 what this is all really about. She's been
19 trying to get even with me ever since. And
20 apparently -- but it's not right my client is
21 a man who's worked hard all of his life, he
22 worked 11 years for this company, he's even
23 been going back to work when he was hurting so
24 badly he could hardly stand himself and they
25 let him do light duty. Employer's been good to



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS COMPENSATION COMMISSION
FULL COMMISSION

Case No.: 2018-002152

Willie Carroll Powell, Employee,

Appellant,

v.

Johnsonville Mechanical Contractors, Inc., Employer,

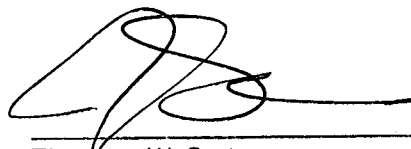
and

Bridgefield Casualty Insurance Company c/o Summit, Carrier,

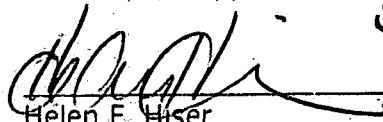
Respondents.

CERTIFICATE OF COUNSEL

I, Thomas W Greene, Attorney for the Appellant, hereby certify that the Supplemental Record on Appeal contains all material agreed upon by counsel for the Appellant and counsel for the Respondents to be added to the Record on Appeal.



Thomas W Greene
Attorney for Appellant



Helen F. Hiser
Attorney for the Respondents

I Consent:

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