

APPELLATE PANEL  
DECISION AND ORDER  
OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1315719

**RECEIVED**  
NOV 04 2019  
SC Court of Appeals

Nathaniel Spann,

APPELLANT  
CLAIMANT,

vs.

Professional Systems,

EMPLOYER,

AND

Liberty Mutual,

CARRIER,  
DEFENDANTS/RESPONDENTS

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Appellate Panel Review held in Columbia, South Carolina,  
on August 19, 2019 per notices timely and properly served  
upon all parties of interest.

Appellate Panel Decision and Order filed  
October 3, 2019

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APPEARANCES:

Appellant Nathaniel Spann, Claimant of Lynchburg, South  
Carolina, appearing *pro se*.

Defendants/Respondents represented by W. Strat Stavrou,  
Esquire of Willson Jones Carter & Baxley, P.A. in  
Columbia, South Carolina.

## STATEMENT OF THE CASE

The parties were heard by Commissioner Avery Wilkerson on March 4, 2019, in Columbia, South Carolina. On May 2, 2019, Commissioner Wilkerson issued an Order from which the Claimant appealed.

The Hearing Commissioner's Decision and Order set forth the following Findings of Fact:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Nathaniel Spann as Employee-Claimant and Professional Systems as Employer and Liberty Mutual Insurance Company as Carrier, Defendants.

2. That the average weekly wage of Employee at the time of the above-described accident was \$282.70, and his compensation rate was \$188.48.

3. At the Hearing, the Claimant admitted that he was simply pursuing this claim again because he disagreed with Commissioner Campbell's Order filed on December 1, 2015. He offered no evidence to support a change of condition claim, so the Defendants' defense regarding the timeliness of the Form 50 does not need to be addressed.

4. The South Carolina Court of Appeals dismissed the Claimant's appeal due to the Claimant's failing to order a transcript of his hearing from the Workers' Compensation Commission. The Order dismissing the matter was filed on July 11, 2016.

5. The Decision and Order of the Appellate Panel was filed on April 25, 2016.

6. The South Carolina Workers' Compensation Commission received a Form 19 on August 10, 2016.

7. The Decision and Order of Commissioner Campbell was filed on December 1, 2015.

8. The Claimant filed a Form 30 Request for Commission Review on November 30,

2015. The Claimant filed a Form 59 Appellant's Informal Brief on January 22, 2016.

9. Based on the greater weight of the evidence, the case at issue was awarded by Commissioner Campbell's Order filed on December 1, 2015. The Full Commission affirmed the Single Commissioner's ruling, and the Full Commission's Order was filed on April 25, 2016. The Claimant appealed the Order of the Full Commission to the Court of Appeals. The Court of Appeals dismissed the Claimant's appeal in an Order filed on July 11, 2016. Thus, this claim is barred under the doctrine of *res judicata*.

The Hearing Commissioner set out the following Conclusions of Law:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.

2. Pursuant to Johnson v. Greenwood Mills, Inc., 317 S.C. 248, 452 S.E.2d 832 (1994) and other relevant statutes, regulations, and case laws, the claim is barred by the doctrine of *res judicata*.

The Hearing Commissioner issued the following orders:

*It is hereby Ordered* that all benefits requested by the Claimant are denied as this claim is barred by the doctrine of *res judicata*.

No hearing costs are assessed in this instance.

Within the statutory period, Claimant filed an Application for Review (Form 30) in the case setting forth the following assignment of error:

1) I Nathaniel Spann, due to the facts and findings of this case and the evidence that I have presented my Form 30, my discogram from Palmetto Baptist, my discogram from Midland tee (sic), and my radiology report from 2014. I failed to see the decision that was made due to the evidence that I am sending you. I have new evidence that say (sic) saying that my disc are the same (illegible) and degenerative. The zero percent is incorrect as we see.

Pursuant to S.C. Code Ann. §42-17-50 (1985), the Appellate Panel reviewed the Order and weighed the evidence in the record as presented at the initial hearing. The Panel also considered all issues raised in the brief of the Respondent. The Panel makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Nathaniel Spann as Employee-Claimant and Professional Systems as Employer and Liberty Mutual Insurance Company as Carrier, Defendants.
2. That the average weekly wage of Employee at the time of the above-described accident was \$282.70, and his compensation rate was \$188.48.
3. At the Hearing, the Claimant admitted that he was simply pursuing this claim again because he disagreed with Commissioner Campbell's Order filed on December 1, 2015. He offered no evidence to support a change of condition claim, so the Defendants' defense regarding the timeliness of the Form 50 does not need to be addressed.
4. The South Carolina Court of Appeals dismissed the Claimant's appeal due to the Claimant's failing to order a transcript of his hearing from the Workers' Compensation Commission. The Order dismissing the matter was filed on July 11, 2016.
5. The Decision and Order of the Appellate Panel was filed on April 25, 2016.
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7. The Decision and Order of Commissioner Campbell was filed on December 1, 2015.

8. The Claimant filed a Form 30 Request for Commission Review on November 30, 2015. The Claimant filed a Form 59 Appellant's Informal Brief on January 22, 2016.

9. Based on the greater weight of the evidence, the case at issue was awarded by Commissioner Campbell's Order filed on December 1, 2015. The Full Commission affirmed the Single Commissioner's ruling, and the Full Commission's Order was filed on April 25, 2016. The Claimant appealed the Order of the Full Commission to the Court of Appeals. The Court of Appeals dismissed the Claimant's appeal in an Order filed on July 11, 2016. Thus, this claim is barred under the doctrine of *res judicata*.

#### **CONCLUSIONS OF LAW**

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.

2. Pursuant to Johnson v. Greenwood Mills, Inc., 317 S.C. 248, 452 S.E.2d 832 (1994) and other relevant statutes, regulations, and case laws, the claim is barred by the doctrine of *res judicata*.

#### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law,

**IT IS, THEREFORE, ORDERED** that all benefits requested by the Claimant are denied

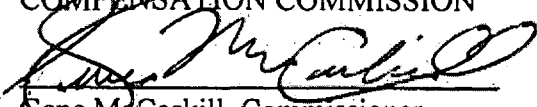
as this claim is barred by the doctrine of *res judicata*.


**IT IS FURTHER ORDERED** that further pleadings in this case are to be administratively dismissed.

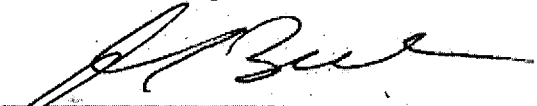
**AND IT IS SO ORDERED.**

**AFFIRMED**

SOUTH CAROLINA WORKERS'  
COMPENSATION COMMISSION

  
Gene McCaskill, Commissioner

  
R. Michael Campbell II, Commissioner

  
T. Scott Beck, Commissioner

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

**By Eugenia Hollmon on October 3, 2019**