

COPY

IN THE SUPREME COURT FOR THE STATE OF MISSISSIPPI

ANNIE DANIELS

CLAIMANT-APPELLANT

VS.

PECO FOODS OF MISSISSIPPI, INC.

CASE NO. 2007-WC-00634

FILED

EMPLOYER-APPELLEE

NOV 02 2007

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SUPREME COURT
COURT OF APPEALS**

REPLY BRIEF OF CLAIMANT-APPELLANT

(On Appeal from the Circuit Court of Madison County, Mississippi)

Oral Argument Not Requested

**AL CHADICK
ATTORNEY AT LAW
POST OFFICE BOX 1637
KOSCIUSKO, MS 39090
(662) 289-2242**

ATTORNEY FOR CLAIMANT-APPELLANT

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SUMMARY OF ARGUMENT FOR REPLY BRIEF

It is still the claimant's contention as stated previously in the Brief filed in this cause, that Dr. James Brister, a psychiatrist, should have been given more weight of evidence given the fact that he treated the claimant for at least a two-year period of time prior to his testimony in March of 2005. Dr. Brister being the treating physician was clearly in a better position to render medical testimony regarding such a complicated issue as Ms. Daniels' mental condition. Dr. Brister had seen and examined her on a continuous basis for the two years at the time of his testimony. In light of this medical treatment from the treating physician, it seems to be improbable that the testimony of Dr. Brister is not given more weight than that of Dr. Webb who only examined the claimant on one occasion. As stated by the Administrative Judge in her decision, there was no evidence of a pre-existing mental condition which has been relied upon by Dr. Webb as well as the employer and carrier in this matter for denying the claimant's condition. The only evidence was the single check mark from the claimant on a medical report at the Canton Family Clinic. There was no other medical reports produced by the employer and carrier nor no other evidence presented. In fact, it was the testimony of the claimant at the time of her hearing that she did not suffer from any pre-existing mental condition. She also testified that she had never been to see a doctor for any previous nerve problems prior to her injury on the job at Peco Foods. In fact, to quote the Administrative Judge, "since Dr. Brister's treatment was temporal to claimant's hospitalization and has continued since that time, I find that his opinions and evaluations are more relevant and apropos to my determination." As previously stated, it is the general standard within the Mississippi Workers' Compensation Commission and their findings that the evidence from a treating physician provides more weight than that of a physician who only

examines the claimant on one occasion. South Central Bell Telephone Company v. Aden, 474 So.2d 584, 593 (Miss. 1985), Mueller Copper Tube Co., Inc. and The Travelers Insurance Company v. Stanley W. Upton, 937 So.2d 428 (Miss. 2005).

CONCLUSION

It is the claimant's position yet again that when looking at this factual as well as medical evidence in total, it would only appear that the evidence would show that the claimant suffered her injury on the job which has been uncontradicted by Dr. Burrows' testimony. Following the injury to her scalp, the claimant began to lose her hair and suffer from her mental disabilities for which she had to seek hospitalization and subsequent treatment from Dr. James Brister. There is a direct link and line of causation from the initial physical injury to the mental injury which the claimant is suffering from. When examining this evidence in whole, from the claimant's perspective it seems very difficult to overrule the Administrative Judge who made the prior decision finding that the claimant's work-related injury produced her psychological/mental injury.

The claimant would therefore request that the original order of the Administrative Judge be reinstated and that the claimant be provided benefits accordingly.

Respectfully submitted,

ANNIE C. DANIELS, CLAIMANT-APPELLANT



AL CHADICK

(MSB NO. [REDACTED])

AL CHADICK
ATTORNEY AT LAW
P.O. BOX 1637
KOSCIUSKO, MS 39090
(662) 289-2242

ATTORNEY FOR CLAIMANT-APPELLANT

CERTIFICATE OF SERVICE

I, Al Chadick, attorney for Claimant-Appellant, do hereby certify that I have this date mailed via United States Mail, postage prepaid, at true and correct copy of the above and foregoing REPLY BRIEF OF CLAIMANT-APPELLANT to the following:

CHRISTOPHER R. FONTAN, ESQ.
BRUNINI, GRANTHAM, GROWER & HEWES
P.O. DRAWER 119
JACKSON, MS 39205

HONORABLE WILLIAM E. CHAPMAN, III
CIRCUIT COURT JUDGE
P.O. BOX 1626
CANTON, MS 39046

This the _____ day of _____, 2007.



AL CHADICK