

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F113864**

**RITA JONES, EMPLOYEE**

**CLAIMANT**

**DELTA COUNSELING ASSOCIATION, EMPLOYER**

**RESPONDENT**

**FIRSTCOMP INSURANCE COMPANY, CARRIER**

**RESPONDENT**

**OPINION FILED APRIL 8, 2004**

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH W. HOGAN, on January 9, 2004, at Monticello, Drew County, Arkansas.

Claimant represented by the HONORABLE KENNETH HARPER, Attorney at Law, Monticello, Arkansas.

Respondents represented by the HONORABLE WILLIAM C. FRYE, Attorney at Law, Little Rock, Arkansas.

**ISSUES**

A hearing was conducted to determine the claimant's entitlement to payment of additional medical expenses, temporary total disability benefits and attorney's fees.

At issue is whether or not the claimant developed mental illness as a consequence of a physical injury as defined by Ark. Code Ann. §11-9-113. All other issues are reserved.

After reviewing the evidence impartially without giving the benefit of the doubt to either party, Ark. Code Ann. §11-9-704, I find the evidence does not preponderate in favor of the claimant.

**STATEMENT OF THE CASE**

The parties stipulated to an employer-employee-carrier relationship on December 3, 2001 at which time the claimant sustained a compensable injury at a compensation rate of \$297.00. Medical expenses and temporary total disability benefits (February 1, 2002 to March 14, 2002) were paid by the carrier. The employer continued the claimant's salary from December 4, 2001 to August 31,

2002. Some medical expenses have been paid by Blue Cross Blue Shield.

This claim was controverted as of March 11, 2002 based on Dr. Winston Wilson's assessment that the claimant could return to work and had reached maximum medical improvement.

The claimant developed post-traumatic stress disorder after being bitten by spiders. The claimant seeks payment of her medical treatment with Dr. McDonald and Bridgeway Hospital; temporary total disability from September 1, 2002 to a date yet to be determined and attorney's fees. The claimant received unemployment benefits from September 28, 2002 to June 28, 2003.

The respondents contend the claimant's treatment at Bridgeway was unrelated to the compensable injury. All appropriate benefits have been paid for the physical injury. The claimant was treated at Bridgeway for alcoholism. She did return to work from March to April. The claimant was involved in an automobile accident on July 19. The respondents terminated her employment on August 27. Alternatively, the claimant's benefits are limited to 26 weeks in the event the claim is found to be compensable.

The following were submitted without objection and comprise the evidence of record: the parties' prehearing questionnaires and exhibits contained in the transcript along with the depositions of the claimant, Dr. Barry S. McDonald, and Dr. Winston Wilson incorporated by reference.

The claimant who was emotionally distraught, was the only witness to testify at the hearing. She seemed tense and nervous as well.

The claimant age 34 (D.O.B. May 12, 1969) has a high school education and some college courses. She completed LPN school and took some RN courses. The claimant began work for the respondent-employer on October 9, 2000 in behavioral pediatrics. Her duties included assessing the behavior of children at home and at school, and conducting afternoon and summer programs for

children. Her office was based in McGhee and she was paid \$26,000.00 yearly plus mileage.

On December 3, 2001 the claimant was bitten by brown spiders apparently nesting in her office chair. She sought treatment from Dr. McKiver in Monticello. He prescribed injections and medication. The claimant developed depression, anxiety, hallucinations, and began abusing alcohol.

The claimant returned to work on January 2 but remained fearful that the spiders would return or that inanimate objects were mistakenly seen as spiders. She told her supervisor that she had a drinking problem and she was advised to talk with the doctors on staff with the respondent-employer.

The claimant was hospitalized at Bridgeway for one month under Dr. Amick's care. She received counseling, medication and attended AA meetings. After her release, she was referred to Dr. McDonald in Pine Bluff and sees him twice per month. She also sees Dr. Amick once a month. Dr. McDonald suggested gradually returning to work at a light case load with no change in her environment.

At the request of the respondents she saw Dr. Wilson who released her to return to work. Her employer put her back to work full time, moved her to a different office in Dumas, and changed her duties to include working with both children and adults. The claimant testified this change in her job duties made her transition back to work difficult. She couldn't cope with meeting new co-workers, new clients, and couldn't keep up with the larger caseload. She told her supervisor about her concerns but the job was not modified. The claimant's drinking increased and she sought treatment with Dr. Micelle at Delta Counseling. He prescribed Valium and Paxil.

In July, 2002 the claimant was involved in a motor vehicle accident while transporting children. She was convicted of driving while intoxicated.

When she had trouble dealing with the public in her job, her supervisor told her to take a few days off and find a therapist. Two days later she was fired. The claimant received unemployment benefits from September 28, 2002 to June 28, 2003. The claimant is in debt to Bridgeway for \$24,000.00 and requires prescription medication of \$110.00 per month. Blue Cross Blue Shield has paid some benefits on this claim.

On cross-examination, counsel emphasized a number of stressors in the claimant's life including a high school rape, a 1987 motor vehicle accident resulting in reconstructive surgery, physical abuse from her first husband, divorce, her daughter leaving to live with her first husband, daughter's behavioral problems and pregnancy and emotional problems, alcohol abuse, a controlling second husband, a flood at her home requiring her family to live in a hotel, her use of diet pills, a dislike of her job hours with the respondent-employer.

Counsel also emphasized that her therapy sessions seemed to be focused on alcoholism and personal problems rather than any on-the-job injury. At Bridgeway, she was encouraged to join Alcoholics Anonymous (AA) but she quit after five meetings.

The respondents have also argued that the claimant is motivated by secondary gain, filing an EEOC claim and looking into Social Security Disability in June while she was still working.

### **MEDICAL EVIDENCE**

Psychologist, Dr. Barry McDonald has opined that the claimant suffers from post-traumatic stress disorder (PTSD) as a result of the spider bites. My impression of his deposition is that Dr. McDonald spoke as an advocate for the claimant, seemed defensive about his diagnosis, and he is extremely verbose.

Dr. McDonald performed no testing on the claimant (Depo. p. 29-30). His diagnosis is based on interviews with the claimant and consultation with the Diagnostic and Statistical manual (DSM). He felt she met 15 of the 17 characteristics of PTSD identified in the DSM (Depo. p. 28) primarily, her symptoms can be categorized as:

- 1) Re-experiencing the event (intrusive thoughts, dreams, memories, illusions, distortions, hallucinations. (Depo. p. 16)
- 2) physiologically reacting to stress (startled, jumpy, difficulty concentrating, sleep problems, hyper-responsiveness to stress feeling overwhelmed).
- 3) Avoidance (numbness, avoiding social situations and people).

When asked about the other stressful events in her life, Dr. McDonald discounted those based on her history that she had always been able to deal with her problems (rape, divorce, physical abuse, MVAs, health problems, domestic issues, etc.) prior to the spider bites (Depo. p. 26-27, 49, 66-68). When confronted with information that conflicted with the history she gave him, Dr. McDonald questioned the accuracy of Dr. Amick's records, distinguished between self-medication and addiction (Depo. p. 14) and questioned the credibility of the claimant's supervisor (Depo. p. 62). Although he seemed critical of Dr. Amick he later indicated they worked closely together on the claimant's case (Depo. p. 33). He saw no evidence of secondary gain (Depo. 27-28) because she was trying to return to work.

Dr. McDonald criticized Dr. Winston Wilson's methods (Depo. p. 39-45, 72-83). He felt the tests were not thorough and his conclusions were generalized. He was critical of the tests Dr. Wilson

performed saying they were not designed to test for PTSD although later he said there was no objective test for PTSD.

Dr. Winston Wilson has opined that the claimant suffered from acute stress disorder adequately treated by her hospitalization and ongoing psychotherapy. He opined that the claimant was capable of returning to work and no further treatment was warranted.

Dr. Wilson based his opinion on diagnostic testing performed during his evaluation of the claimant on March 7, 2002. He did find evidence of malingering, exaggeration, and psychosomatic disorder.

In his deposition, he explained the difference between acute stress disorder and PTSD (Depo. p. 18-20). It is Dr. Wilson's opinion that the claimant suffered a traumatic event but its effect was short-termed. He felt her alcohol abuse problem needed to be addressed, but it was unrelated to the compensable injury. (Depo. p. 25) Dr. Wilson also discussed his disagreement with Dr. McDonald's comments on various topics (Depo. p. 24-25-27).

### **FINDINGS AND CONCLUSIONS**

It is the function of the Commission to determine the credibility of witnesses and the weight to be given their testimony. Jordan v. Tyson Foods, Inc., 51 Ark. App. 100, 911 S.W.2d 593 (1995). The Commission has authority to accept or reject medical opinion and to determine its medical soundness and probative force. Id.

I did not feel Dr. McDonald was objective about the claimant's situation. More evidentiary weight has been given to Dr. Wilson who persuasively explained his diagnosis and use of diagnostic testing.

The evidence of record shows that the claimant has had a troubled life with numerous personal problems (physical and sexual abuse, MVA, surgeries) outside stressors (domestic and financial problems) which have clouded the diagnosis.

Because the diagnostic testing revealed symptom magnification and malingering, this calls into question the claimant's credibility. After considering the claimant's history and credibility I find that she has failed to meet her burden of proof by a preponderance of the evidence of record.

1. The Worker's Compensation Commission has jurisdiction of this claim in which the relationship of employer-employee-carrier existed on December 3, 2001 at which time the claimant sustained a compensable injury at a compensation rate of \$297.00. Medical expenses and temporary total disability benefits were paid.
2. The claimant has failed to prove by a preponderance of the credible evidence of record that her emotional problems are causally related to the compensable injury.
3. Respondents have paid all appropriate benefits and no additional treatment is necessary for the compensable injury.

This case is respectfully denied and dismissed.

IT IS SO ORDERED.

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ELIZABETH W. HOGAN  
Administrative Law Judge