

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. D900041

SAMUEL SNOWDEN, EMPLOYEE	CLAIMANT
POULAN/WEEDEATER (WHITE CONSOLIDATED INDUSTRIES), EMPLOYER	RESPONDENT
CLAIMS MANAGEMENT SOLUTIONS, INSURANCE CARRIER	RESPONDENT

OPINION FILED JUNE 11, 2004

Hearing conducted before Administrative Law Judge C. MICHAEL WHITE in Prescott, Nevada County, Arkansas.

The claimant, SAMUEL SNOWDEN, PRO SE, Delight, Arkansas.

The respondents were represented by EDWARD MCCORKLE, Attorney at Law, Arkadelphia, Arkansas.

OPINION AND ORDER

A hearing was held in this matter on March 19, 2004. A prehearing conference was conducted on January 6, 2004, and a prehearing order was filed on January 6, 2004. A copy of the prehearing order has been marked as Commission Exhibit No. 1 and made a part of the record without objection.

From a review of the record as a whole, to include the testimony of the claimant, as well as the medical records and other documentary evidence, the

following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. § 11-9-704 (Cumm. Supp. 1997):

FINDINGS AND CONCLUSIONS

1. I find that the Commission is without jurisdiction to take any further action on this claim.

DISCUSSION

The claimant in the present matter contends that a joint petition order that was filed on June 25, 1991, should be set aside. In support of his request, the claimant contends that the attorney who previously represented him, Phillip Wilson, committed fraud. In this regard, the claimant contends that Mr. Wilson advised the claimant to travel to Michigan to have the joint petition notarized to make it appear that the claimant was living in Michigan. Apparently, the claimant contends that Mr. Wilson allegedly advised him to do this so that the joint petition would be considered by the commission on interrogatories instead of at a hearing before an administrative law judge. The claimant further contends that Mr. Wilson willfully made false or misleading statements or misrepresentations for the purpose of denying the claimant all of his rights under the Arkansas Workers' Compensation Act, and he contends that Mr. Wilson made statements designed to deceive the claimant and to commit fraud on the commission. The claimant further contends that Mr.

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Wilson actually represented the respondents and, due to his representation of the respondents, could not have adequately represented the interest of the claimant.

The evidence establishes that a joint petition for final settlement was submitted to the commission in May of 1991. I note that the claimant's signature was notarized before a Notary Public in the state of Michigan on May 8, 1991. I also note that the notary statement contains a typographical error and indicates in one place that the joint petition was actually executed on May 8, of 1990. However, all other evidence in the records indicates that the joint petition was, in fact, executed in May of 1991. Consequently, I find that the clerical error contained in the joint petition in no way effects the validity of that document. In any event, the joint petition provides for a lump sum payment to the claimant of \$2,000.00 and for an attorney's fee of \$500.00, to be paid to Mr. Wilson. Despite his allegations against Mr. Wilson, the claimant readily acknowledged at the hearing conducted before this administrative law judge on March 19, 2004, that he willingly signed the joint petition, indicating his agreement to settle his claim. At the time the joint petition was submitted to the commission, the commission was advised that the claimant resided in Michigan and that it would not be feasible for him to travel to Arkansas to attend a hearing on the joint petition. Consequently, the joint petition was

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submitted on interrogatories. A copy of those interrogatories were submitted into the record compiled at the hearing before this administrative law judge. At the hearing, before the administrative law judge, the claimant acknowledged that the answers contained in those interrogatories were his answers and that he had, in fact, signed the joint petition questionnaire asserting that he had, in fact, answered each of the questions truthfully. Notably, in the joint petition interrogatories the claimant stated that he did, in fact, live in Ann Arbor, Michigan and that it was not feasible for him to travel to Arkansas. Furthermore, the claimant asserted in the joint petition questionnaire that he felt that the amount he was to receive under the terms of the joint petition was satisfactory and fair and that the proposed joint petition settlement was in his best interest. Moreover, the claimant asserted in the joint petition questionnaire that he understood that he had the choice of not accepting the joint petition settlement and instead having a hearing before an Administrative Law Judge for the Arkansas Workers' Compensation Commission and he asserted that he was waiving his right to a hearing and instead asking the Commission to approve the joint petition for settlement.

The Arkansas Workers' Compensation Law provides for joint petitions and Ark. Code Anno. §11-9-805, provides the following:

(a) Upon petition filed by the employer or carrier and the injured employee requesting that a final settlement be had between the parties, the Workers'

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Compensation Commission shall hear the petition and take testimony and make investigations as may be necessary to determine whether a final settlement should be had.

(b)(1) If the commission decides it is for the best interests of the claimant that a final award be made, it may order an award that shall be final as to the rights of all parties to the petition.

(2) Thereafter, the commission shall not have jurisdiction over any claim for the same injury or any results arising from it.

(c) If an employee has returned to work or agreed to return to work, the commission shall not approve a joint petition which has allotted moneys for vocational rehabilitation or any indemnity benefits in excess of that payable as an anatomical impairment as established by objective and measurable findings.

(d) If the commission denies the petition, the denial shall be without prejudice to either party.

(e) No appeal shall lie from an order or award denying a joint petition.

Consequently the statute provides a mechanism for parties to resolve disputed claims with finality by divesting the Commission of any future jurisdiction to consider that claim. *Bradford v. Arkansas State Hospital*, 270 Ark. 99, 603 S.W. 2d 896. Accordingly, where the parties jointly petition the Commission for settlement of a disputed claim, and where the Commission finds the proposed settlement to be in the claimant's best interest and approves the joint petition, the Commission loses jurisdiction to subsequently reopen the claim. *Cook v. Brown*, 246 Ark 11, 436 S.W. 2d 482 (1969), *Moore v. Wausau Insurance Co.*, 74 Ark. App. 201, 47 S.W. 3d 274 (2001), *Stratton v. Death & Permanent Total Disability Trust Fund*, 28 Ark. App. 86, 770 S.W. 2d 678 (1989). *Bradford, supra*.

In the present claim, the evidence presented at the hearing establishes that the joint petition was properly submitted to the Commission and that the required statutory procedures were followed prior to consideration of the joint petition by the administrative law judge prior to his entry of the order approving the joint petition. Furthermore, I find that the claimant failed to prove by a preponderance of the evidence that the joint petition order was procured through the fraud of his attorney either against the claimant or against the Commission. In this regard, although the claimant now comes before the Commission asserting that the petition was procured due to fraud of his attorney both against the claimant and against the Commission, the claimant readily acknowledges that he understood the effect of the joint petition at the time he entered into the agreement and accepted the terms of the joint petition. Furthermore, it was the statements and assertions made by the claimant in the pleadings filed with the commission that were relied upon in approving this joint petition, not the statements or assertions of his attorney. Accordingly, I find that neither the statute, nor any inherent powers of the Commission justify setting aside the joint petition order filed in this matter and allowing the claimant to reopen his claim. Such an action would be in direct conflict with the statutes and with the language of the joint petition. Accordingly, I find that the Commission is without jurisdiction to take any further action on this claim.

ORDER

Accordingly, based on my review of the entire record and for the reasons discussed herein, I find that this claim must be, and hereby is, denied

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and dismissed.

IT IS SO ORDERED.

C. MICHAEL WHITE
Administrative Law Judge