

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E309021

BOBBIE DOZIER, EMPLOYEE	CLAIMANT
DEPARTMENT OF FINANCE AND ADMINISTRATION, EMPLOYER	RESPONDENT
PUBLIC EMPLOYEE CLAIMS DIVISION, INSURANCE CARRIER/TPA	RESPONDENT

ORDER FILED JULY 3, 2003

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant appeared PRO SE.

Respondent represented by HONORABLE THOMAS J. PENDOWSKI, Attorney at Law, Little Rock, Arkansas.

ORDER

This matter is currently before the Full Workers' Compensation Commission on the respondents' Motion to Dismiss Claimant's Notice of Appeal and to Rescind Briefing Schedule. The claimant has filed an objection to this motion. After considering the respondent's Motion, the claimant's response thereto, and all other matters properly before the Commission, we find that the respondent's Motion should be granted.

A Joint Petition hearing was conducted in this claim and a Joint Petition Order approving the settlement was signed and filed on June 20, 2001. The claimant requested that her case be reopened by letter dated December 13, 2002. An Administrative Law Judge's opinion filed on April 1, 2003, addressed the issues of whether the

Commission had jurisdiction over the claim, and whether the claimant had stated a legal basis for her request to set aside the Joint Petition Order, and found that the June 2001 Joint Petition Order approved a final settlement between the parties, and that the Commission lost jurisdiction over the claim upon the entry of that Order, pursuant to Ark. Code Ann. §11-9-805(Repl. 2002), which states in Section (b) (2) that once the Commission makes a final award based upon a Joint Petition, the Commission "shall not have jurisdiction over any claim for the same injury or any results arising from it." The Administrative Law Judge found that the claimant failed to set forth any basis for setting aside the Joint Petition Order, and that even if it were determined that the Commission still had jurisdiction over this claim, that the claimant failed to file a claim for additional benefits within the one-year statute of limitations and her claim would be barred regardless. From this Order the claimant appealed; the Respondents' Motion to Dismiss followed.

We find that the respondents' Motion to Dismiss the Claimant's Notice of Appeal should be granted. The statute terminating the Commission's jurisdiction, and the case law on this issue, make it clear that this claim is simply not subject to the review which the claimant is now seeking. In Stratton v. Death and Permanent Disability

Fund, 28 Ark. App. 86, 770 S.W.2d 678 (1998), the Court of Appeals wrote: "It is clear that the finality of a joint petition settlement is viewed from the claimant's standpoint, and it is the claimant's right to proceed further which is extinguished." While the claimant is precluded from setting aside a Joint Petition Order which she has entered into, she is not precluded from enforcing the terms of the Joint Petition. However, this claimant has made no assertion that the terms of the settlement have not been fulfilled. She is not asking the Commission to enforce the terms of the settlement, but is seeking to have that settlement set aside so that she may seek additional benefits. The Commission lost jurisdiction with respect to this matter on the date the Joint Petition Order was entered. Therefore, the respondents' motion should be, and hereby is granted. The claimant's appeal is dismissed and the briefing schedule in this matter is rescinded.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

JOE E. YATES, Commissioner

Commissioner Turner dissents.