

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F204378

LESLIE E. BLAND, EMPLOYEE	CLAIMANT
BAXTER REGIONAL MEDICAL CENTER, EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, CARRIER	RESPONDENT

ORDER FILED OCTOBER 14, 2005

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

Claimant represented by HONORABLE FREDERICK SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondent represented by HONORABLE CAROL L. WORLEY, Attorney at Law, Little Rock, Arkansas.

ORDER

Presently before the Commission is claimant's Motion to Remand and to File Additional Evidence. After consideration of claimant's motion, the respondents' response thereto, as well as all other matters properly before the Commission, we find that the motion must be and hereby is denied.

This claim has previously been before the Full Commission on both our Motion Docket and Appeal Docket. Claimant's Motion to Recuse and Motion to Remand for Supplemental Hearing before Independent Judiciary were

denied in an Order Filed August 16, 2005. In addition, the substantive nature of this claim was addressed in a Full Commission Opinion filed September 2, 2005. Claimant filed a timely notice of appeal from that Opinion. Now claimant moves to remand this claim to the Administrative Law Judge and to introduce additional evidence into the record.

First, claimant moves to supplement the record with additional evidence, namely copies of depositions of Eldon F. Coffman, Julie Benefield Bowman, Pat West Humphrey, Michael K. Wilson, Brenda Turner, and Marcus Christian Devine, which were taken in the case of Eileen W. Harrison v. Eldon F. Coffman filed in the United States District Court, Eastern District of Arkansas, Western Division bearing case number LR-C-98-716. Claimant asserts that this additional evidence demonstrates bias on behalf of the Commission and its Administrative Law Judges to decide workers' compensation cases based upon the desires of the Governor of the State of Arkansas and his administration. Claimant asserts that this "new evidence" he has recently obtained speaks directly to his claims in this case. These depositions taken in 1999 and 2000 concern Ms. Harrison's

termination as an employee of this Commission. None of the present Commissioners were Commissioners at the time of the taking of the depositions. Moreover, Ms. Bowman is no longer associated with the Arkansas Workers' Compensation Commission. The Administrative Law Judge involved in this claim was not an Administrative Law Judge of the Commission when Ms. Harrison was terminated in 1998, or in 1999 or 2000 when the depositions were taken. Finally, the claimant's alleged injury had not even occurred when these depositions were taken. A.C.A. § 11-9-705(c)(1)(A) provides, "All oral evidence or documentary evidence shall be presented to the designated representative of the commission at the initial hearing on a controverted claim, which evidence shall be stenographically recorded." In order to submit new evidence a moving party must show that the newly discovered evidence is relevant; that it is not cumulative; that it would change the result; and that the movant was diligent in presenting the evidence. Mason v. Lauck, 232 Ark. 891, 340 S.W.2d 575 (1980); Haygood v. Belcher, 5 Ark. App. 127, 633 S.W.2d 391 (1982).

In the present matter, the claimant has not

presented any "new evidence" which is relevant, not cumulative, or would change the results of the case. The claimant has additionally not been diligent in presenting new evidence to the Commission. The Full Commission therefore denies the claimant's request for submission of this "new evidence." As noted by the respondents, the claimant's previous motion to Recuse and Remand evidenced the fact that the claimant's attorney was aware of the details concerning Ms. Harrison's lawsuit and that he has been making these same allegations of political corruption, judicial misconduct and quasi-judicial proceedings long before the present case went to a hearing. These depositions were taken in 1999 and 2000, and the claimant could certainly have obtained them before now if he had been diligent. Moreover, these depositions are not relevant to any issue in this case. Claimant's attorney is not mentioned in any of these depositions nor is his client, Leslie Bland. The allegations raised in the lawsuit in which these depositions were taken involved only the termination Ms. Harrison. Finally, the Commissioners and CEO involved in Ms. Harrison's termination are no longer with the

Commission. Accordingly, the Commission finds that these depositions would not change the result of this case, i.e. whether the claimant has established a compensable injury by a preponderance of the evidence.

Claimant further moves for a remand of this claim to the Administrative Law Judge in order to more fully develop his constitutional arguments. For those reasons set forth in our Order filed August 16, 2005, as well as those reasons set forth above, we find that the claimant's Motion to Remand must be denied.

Accordingly, we find claimant's Motion To Remand and to File to Submit Additional Evidence should be and hereby is, denied.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner