

# ARKANSAS COURT OF APPEALS

DIVISION I  
No. CA 10-548

ALBARO VIJIL

APPELLANT

V.

SCHLUMBERGER TECHNOLOGY  
CORP., ST. PAUL TRAVELERS, and  
SECOND INJURY FUND

APPELLEES

**Opinion Delivered** February 2, 2011

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F609346]

REVERSED and REMANDED

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**DOUG MARTIN, Judge**

This is an appeal from a decision of the Arkansas Workers' Compensation Commission. Appellant Albaro Vijil contended that he was injured while lifting heavy tools at his place of employment. The administrative law judge denied benefits, finding that Vijil had not proven that he sustained a compensable injury, and the Commission agreed. On appeal, Vijil argues that the Commission's decision is not supported by substantial evidence.

Vijil had been employed since 2005 by appellee Schlumberger Technology Corp., a company that does work in the oil and gas industry. While working a shift on July 2, 2006, Vijil was unloading very large and heavy tools off of a pickup truck onto a platform, or "V ramp," at the job site. As he moved the tools, he felt something like a "twitch" or "muscle spasm" in the midsection of his back. He was able to continue working and finished his shift,

but over the next two weeks, he began experiencing numbness in his left leg. The numbness spread to his left hand and his chest; fearing that he might be about to have a heart attack or stroke, Vijil saw a cardiologist, Dr. Julio Schwarz, on July 25, 2006. Dr. Schwarz found nothing wrong with Vijil and referred him to Dr. William Griggs, a neurologist.

Vijil reported to Dr. Griggs that he was experiencing back pain, a sense of pressure to the left of his spine in his lower back, and numbness and tingling in his left leg and arm. Concluding that Vijil had “a clear-cut peripheral neuropathy,” Dr. Griggs ordered an MRI of his cervical spine. Dr. Michael Standefer performed an MRI scan of Vijil’s cervical, thoracic, and lumbar spine and discovered that Vijil had disc herniations at C4-5, C5-6, and C6-7 with a small disc protrusion at C7-T1 and at C3-4. The MRI also revealed central canal stenosis and multilevel degenerative change. The thoracic MRI also demonstrated degenerative change and disc bulging at L4-5. Due to the “severe cord compression” and ruptured disc at C5-6, Dr. Standefer recommended prompt surgical intervention.

Vijil subsequently filed a workers’ compensation claim, and a hearing was held before the ALJ on April 30, 2009, to determine whether Vijil had sustained a compensable injury in an employment-related accident. Following the hearing, the ALJ issued an opinion filed on July 29, 2009, denying Vijil’s claim for benefits. The ALJ found that Vijil had demonstrated that he had objective findings of difficulties with his cervical spine, as shown by the medical records; in addition, the ALJ found that Vijil had established the existence of physical injury by medical evidence. The ALJ determined, however, that Vijil had not

proven that his medically established and objectively documented injuries met the definition of a compensable injury found in Arkansas Code Annotated section 11-9-102(4)(A)(i) (Repl. 2002).

Specifically, the ALJ found that Vijil failed to meet his burden of proving by a preponderance of the evidence that a causal relationship existed between the incident he alleged had occurred at work and his objectively founded cervical-spine difficulties. In reaching this conclusion, the ALJ emphasized that Vijil's visit to Dr. Standefer on September 5, 2006 "is the first occasion that [Vijil] reports his belief that his difficulties are related to an incident at work. This report is more than two months removed from the alleged injury on July 2, 2006, . . . but before this report no mention was made of any work-related or non-work-related incident."

Vijil filed a timely notice of appeal of the ALJ's decision to the Commission. On March 17, 2010, the Commission entered an opinion adopting and affirming the ALJ's decision. One commissioner dissented, however, stating that he believed that Vijil had offered sufficient credible testimony and evidence to demonstrate that he sustained a compensable injury. Vijil filed a timely notice of appeal of this decision to this court on April 15, 2010. On appeal, Vijil urges that the Commission's decision is not supported by substantial evidence and that the Commission disregarded certain evidence and made findings that were contradicted by the record. We cannot reach the merits of his arguments at this time, however, because the Commission's opinion is defective.

It is the Commission's duty to find the facts, and, when sufficient findings of essential facts are lacking, we are unable to perform any meaningful review of the Commission's decision. *Wright v. Am. Transp.*, 18 Ark. App. 18, 709 S.W.2d 107 (1986). A satisfactory, sufficient finding of fact must contain all of the specific facts relevant to the contested issue or issues so that the reviewing court may determine whether the Commission has resolved these issues in conformity with the law. *Lowe v. Car Care Mktg.*, 53 Ark. App. 100, 919 S.W.2d 520 (1996); *Wright, supra*. We are unable to make such a determination in this case.

As noted above, the Commission affirmed and adopted the decision of the ALJ, who wrote that Vijil did not report to anyone that he believed his injuries were work-related until his September 5, 2006 visit to Dr. Standefer. This statement, however, is refuted by the deposition testimony of one of Vijil's co-workers, Travis Rushing. Rushing stated that, although he was not certain of the exact date, he remembered a day when Vijil mentioned that his back and the side of his leg were hurting. Rushing said that he knew the conversation was the day before they went to a training school in Kellyville, and that he remembered that Vijil said that he was putting a tool on the truck when he hurt his back. Vijil testified that the training school began on July 4, 2006, thus placing the date on which he told Rushing of his work-related injury on July 3, 2006.

Because the Commission found that Vijil did not report to anyone that his injuries were work-related until September 5, 2006, we are unable to say whether Rushing's testimony was disbelieved, overlooked, or disregarded arbitrarily. *See Edens v. Superior Marble*

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*& Glass*, 346 Ark. 487, 58 S.W.3d 369 (2001) (holding that the Commission may not arbitrarily disregard the testimony of any witness, nor may the Commission arbitrarily disregard other evidence submitted in support of a claim). It is reversible error for the Commission to state that there is no evidence on an issue when such evidence in fact appears in the record. *Prock v. Bull Shoals Landing*, 2010 Ark. App. 724 (citing *Edens, supra*). The Commission's findings do not "contain all of the specific facts relevant to the contested issue," see *Lowe v. Car Care Mktg., supra*; here, the contested issue is whether Vijil demonstrated that a causal relationship existed between his work-related incident and his spinal injuries. Accordingly, we must reverse and remand for the Commission to make findings of fact that are sufficiently detailed and specific to permit meaningful judicial review.

Reversed and remanded.

PITTMAN and HART, JJ., agree.