

# ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA10-1106

RENE CIENFUEGOS-MENDOZA  
APPELLANT

V.

DOBBS COATING SYSTEM  
APPELLEE

**Opinion Delivered** MARCH 16, 2011

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F903005]

REVERSED AND REMANDED

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**RITA W. GRUBER, Judge**

Rene Cienfuegos-Mendoza appeals the denial of his workers' compensation claim arising from a January 20, 2009 accident that occurred during his work for appellee Dobbs Coating System. Appellant contends that substantial evidence does not support the Commission's findings that he 1) did not suffer compensable injuries to his face and neck, and to his lower back, and therefore was not entitled to related medical treatment; and 2) was not entitled to temporary total disability benefits from at least March 1, 2009. We reverse and remand.

In a case such as this one, where the Commission denies benefits because a claimant failed to meet his or her burden of proof, the appellate court will affirm if the Commission's decision displays a substantial basis for the denial of relief. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000). The weight and interpretation of medical evidence are matters

for the Commission. *Pyle v. Woodfield, Inc.*, 2009 Ark. App. 251, 306 S.W.3d 455; *Gaither Appliance v. Stewart*, 103 Ark. App. 276, 288 S.W.3d 690 (2008). If reasonable minds could have reached the result shown by the Commission's decision, we must affirm. *Sys. Contracting Corp. v. Reeves*, 85 Ark. App. 286, 151 S.W.3d 18 (2004).

The findings of the Commission will be upheld unless there is no substantial evidence to support them. *Ark. Dep't of Correction v. Glover*, 35 Ark. App. 32, 812 S.W.2d 692 (1991). Substantial evidence exists only if reasonable minds could have reached the result shown by the Commission's decision, we must affirm. *White Consol. Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001). The appellate court defers to the Commission on issues involving the weight of the evidence and the credibility of the witnesses, but the Commission may not disregard testimony and is not so insulated as to render appellate review meaningless. *Freeman v. Con-Agra Frozen Foods*, 344 Ark. 296, 40 S.W.3d 760 (2001).

The accident at issue occurred on January 20, 2009, while appellant was helping his supervisor load metal sawhorses onto a low-rise trailer. Appellant apparently fell several feet, tried to sit up, blacked out, and fell again.<sup>1</sup> Appellee contested his claim that he 1) had sustained a compensable injury to his "head, thoracic and lumbar spine" and 2) was entitled to medical services and temporary total disability from January 21, 2009, through a date yet to be determined. Appellant testified at a hearing before the administrative law judge that he experienced considerable difficulties following the injury, they continued through the hearing

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<sup>1</sup>An interpreter translated appellant's Spanish to English at various times in this case.

date, and they differed significantly from those caused by a 2005 back injury. Additionally, medical records introduced into evidence documented that he had a degenerative spine condition prior to the 2005 injury.

The law judge found that injuries appellant sustained in the 2009 accident to his lower back, as well as injuries to his face or head, were established by objective findings and were compensable. The Workers' Compensation Commission denied appellant's claim, in large part because it found a lack of objective evidence supporting a compensable back injury:

In our opinion, a review of the evidence demonstrates that the claimant has failed to prove by a preponderance of the evidence that he sustained a compensable injury supported by objective findings. The medical records indicate that the claimant suffered a low back injury while working in 2005, and he complained of severe pain just like he is now. . . . We cannot find that the claimant proved by a preponderance of the evidence that his problems are anything more than degenerative and chronic in nature. . . . [Dr. Safman] compared all the medical records from 2005 to the records from 2009, and he noted that there was no objective documentation of any acute injury.

Appellant asserts that there were objective medical findings to support his back, neck, and head injuries, and he points to objective evidence following his January 20, 2009 accident.

An "accidental injury causing internal or external physical harm . . . arising out of and in the course of employment and which requires medical services" is a compensable injury; a compensable injury must be established by medical evidence supported by objective findings, which are those that cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(4)(A)(i), (4)(D), (16)(A)(i) (Supp. 2009). Objective medical evidence is necessary to establish the existence and extent of an injury but not essential to establish the

causal relationship between the injury and a work-related accident. *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999).

External contusion or bruising is an objective medical finding that satisfies the statutory requirement in workers' compensation cases. *Ellis v. J.D. & Billy Hines Trucking, Inc.*, 104 Ark. App. 118, 289 S.W.3d 497 (2008); *Parson v. Ark. Methodist Hosp.*, 103 Ark. App. 178, 287 S.W.3d 645 (2008); *Bryant v. Staffmark, Inc.*, 76 Ark. App. 64, 67, 61 S.W.3d 856, 858 (2001). Likewise, swelling is objective evidence of injury. See *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999).

Carolyn Nutter, a certified physician's assistant, saw appellant in a January 21, 2009 visit arranged by his supervisor. She diagnosed lumbar- and thoracic-spine strains, facial contusion, head trauma, and disorientation as to place, and reported that he had "lumbar spine pain midline with ecchymosis noted."<sup>2</sup> She wrote an off-work slip noting extensive injuries to his face, brain, left shoulder, and thoracic and lumbar spines. A March 16, 2009 examination by physician's assistant Daniel Briley noted left-sided swelling of the lumbar spine at approximately L-5 through S-1, and hyperactive reflexes on the left compared to the right. On March 30, 2009, Ms. Nutter noted diminished deep tendon reflexes and wrote an off-work slip to last until appellant could be seen by neurosurgeon Dr. Knox.

We reverse the Commission's finding that no objective medical evidence supports the existence of a work-related injury on January 20, 2009. We specifically reverse the finding

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<sup>2</sup> Ecchymosis is defined as a "small hemorrhagic spot . . . in the skin or mucous membrane forming a nonelevated, rounded or irregular, blue or purplish patch." *Dorland's Illustrated Medical Dictionary* 539 (31st ed. 2007).

that objective evidence did not support the existence of a lumbar injury, which was the basis of the Commission's decision to deny this claim in its entirety. Additionally, we note that the Commission did not make and enter findings of fact and rulings of law regarding appellant's claim for compensable injuries to his head and neck.<sup>3</sup> We reverse and remand for consideration of the objective findings noted herein.

Reversed and remanded.

VAUGHT, C.J., and BROWN, J., agree.

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<sup>3</sup>The law judge found objective evidence of the face injury in cuts or abrasions and mild swelling in the left periorbital area; for the lumbar injury, he found objective evidence in ecchymosis or bruising, muscle spasms, and swelling, together with various anatomical defects shown by x-ray and CT scans.