

CORNISH WELDING SHOP and TRADERS  
INSURANCE COMPANY *v.* George GALBRAITH,  
Employee

82-236

644 S.W.2d 926

Supreme Court of Arkansas  
Opinion delivered January 17, 1983  
[Rehearing denied February 21, 1983.\*]

1. **WORKERS' COMPENSATION — STATUTE OF LIMITATIONS ON ADDITIONAL COMPENSATION.** — In cases where compensation for disability has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the Commission within one year from the date of the last payment of compensation, or two years from the date of the injury, whichever is greater. [Ark. Stat. Ann. § 81-1318 (b) (Repl. 1976).]
2. **WORKERS' COMPENSATION — ARKANSAS IS AN "INJURY STATE."** — Arkansas is an "injury state" because the applicable statutes have long been interpreted as meaning that the date of accident and the date of injury are not necessarily the same. [Ark. Stat. Ann. § 81-1302 (d), (n) (Repl. 1976).]
3. **WORKERS' COMPENSATION — INJURY DEFINED.** — Injury means the state of facts which first entitled the claimant to compensation, so that if the injury does not develop until some time after the accident, the cause of action does not arise until the injury develops or becomes apparent.
4. **WORKERS' COMPENSATION — NO LATENT INJURY UNDER THE CIRCUMSTANCES.** — Where respondent knew he was injured on the date of the accident, his ophthalmologist's report stated that there was a permanent partial disability to the eye and that he might lose occupational vision of the eye, his eye was operated on, he filed a claim for benefits, and he was compensated for a permanent partial disability, the injury was patent, at the latest, by May 1972, when the ophthalmologist made his report.
5. **WORKERS' COMPENSATION — CLAIM MUST BE FILED WITHIN CERTAIN TIME PERIOD OF WHEN THE SUBSTANTIAL CHARACTER OF THE INJURY BECOMES KNOWN.** — When the substantial character of the injury becomes known, then the claimant must file his claim within a specified period of time, or be barred thereafter by the statute of limitations.

On Writ of Certiorari to the Court of Appeals to Review its Affirmance of the Arkansas Workers' Compensation Commission; reversed and dismissed.

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\*ADKISSON, C.J., would grant rehearing.

*Brown, Compton & Prewett, Ltd.*, by: *Floyd M. Thomas, Jr.*, for appellant.

*Denver L. Thornton*, for appellee.

ROBERT H. DUDLEY, Justice. Respondent, George Galbraith, was injured on August 1, 1971 when a piece of steel lodged in his left eye. That same day he sought medical treatment. He was unable to work for a period of five weeks and was paid temporary total disability benefits pursuant to our Workers' Compensation Act. On October 2, 1971, the object was surgically removed. His ophthalmologist's report stated "it is possible that this lens opacity may mature later on and the patient would have occupational vision lost left eye." On May 1, 1972, respondent was paid a lump sum for forty percent permanent partial disability to the left eye. Almost two years later, in February, 1974, respondent suffered the complete loss of sight in the left eye. On February 5, 1975, almost three years after payment of compensation for the permanent partial disability, respondent filed a claim for compensation for complete loss of the eye. The Court of Appeals, in an unpublished opinion, found the injury was compensable and remanded the case to the Workers' Compensation Commission for consideration of the issues of a latent injury and the statute of limitations. *Galbraith v. Cornish Welding Shop et al*, September 30, 1980. Upon remand the Workers' Compensation Commission found the claim was filed within the period of limitations and awarded respondent additional benefits for the complete loss of sight in the eye. The Court of Appeals then affirmed the commission. *Cornish Welding Shop et al v. Galbraith*, 6 Ark. App. 115, 639 S.W.2d 68 (1982). We granted certiorari pursuant to Rule 29 (1) (c) to determine whether there was error in interpreting the applicable statutes. We reverse the Court of Appeals and dismiss the claim because it is filed outside the period for additional compensation.

The statute of limitations at issue is as follows:

Additional Compensation. In cases where compensation for disability has been paid on account of injury, a claim for additional compensation shall be barred



case is barred because the two year statutory period of limitation from the date of the injury expired long before the February, 1975, filing of this claim.

Reversed and dismissed.

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