

Vickie SCARBROUGH v. CHEROKEE ENTERPRISES
and Royal Insurance Company

91-54

807 S.W.2d 468

Supreme Court of Arkansas
Opinion delivered April 22, 1991

Petition for Review; granted.

Anthony Bartels, for petitioner.

Paul Waddell, for respondent.

PER CURIAM. The Arkansas Court of Appeals affirmed a decision of the Workers' Compensation Commission denying

benefits to the petitioner, Vickie Scarbrough. In her petition seeking review of the Court of Appeals decision, *Scarbrough v. Cherokee Enter.*, 33 Ark. App. 139, 803 S.W.2d 561 (1991), Ms. Scarbrough has raised an issue concerning the standard of review to be applied on appeal of workers' compensation cases. The Court of Appeals addressed the issue, pointing out that the standard of appellate court review of workers' compensation cases had been discussed, *Webb v. Workers' Compensation Comm'n*, 292 Ark. 349, 352, 730 S.W.2d 222, 726 (1987) (Newbern, J., Concurring), *see also Hamby v. Everett*, 4 Ark. App. 52, 627 S.W.2d 266 (1982) (Glaze, J., Dissenting), but that the law making the commission the fact finding body and limiting the review to a substantial evidence standard remains the law. *Arkansas Power & Light Co. v. Hooks*, 295 Ark. 296, 749 S.W.2d 291 (1988).

The petition for review is granted, and the parties are directed to file supplemental briefs limited to discussion of the standard of review issue and the question whether an appellate court should be bound by a factual determination by a commission or board which has not had the evidence directly presented before it. The Briefs will be filed pursuant to Arkansas Supreme Court and Court of Appeals Rule 29.6., except that the Petitioner shall have 30 days from the date of this order to file her brief, and the Respondent shall have 20 days from the date the Petitioner's brief is filed to file the Respondent's brief.

Briefs from interested *amici curiae* are invited.
