

IN THE COURT OF APPEALS

7/29/97

OF THE

STATE OF MISSISSIPPI

NO. 94-CC-00883 COA

MARK ERVIN CAULEY APPELLANT

v.

MORTON INTERNATIONAL, INC., A

SELF-INSURED EMPLOYER APPELLEE

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND

MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. KATHY KING JACKSON

COURT FROM WHICH APPEALED: JACKSON COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT: MARK NELSON

ATTORNEYS FOR APPELLEE: RAYMOND L. BROWN

PATRICK R. BUCHANAN

NATURE OF THE CASE: WORKERS COMPENSATION

TRIAL COURT DISPOSITION: CIRCUIT COURT AFFIRMED DECISION OF THE COMMISSION DENYING BENEFITS TO THE APPELLANT

MANDATE ISSUED: 8/19/97

BEFORE McMILLIN, P.J., COLEMAN, AND PAYNE, JJ.

McMILLIN, P.J., FOR THE COURT:

The case now before the Court is a workers compensation appeal. The Mississippi Workers Compensation Commission denied benefits to Mark Ervin Cauley based on the conclusion that his disabilities were not work-related. Cauley appealed that decision to the Circuit Court of Jackson County. That court affirmed the decision of the commission, and Cauley now appeals to this Court. Upon a finding that the commission's determination against compensability is supported by substantial evidence in the record, we affirm the circuit court.

## I.

### Facts

Cauley was employed by Morton Thiokol, Inc. in a job that caused him to be exposed to certain chemicals that included a number believed to be liver toxins. Cauley developed, over a period of years, a progressively-worsening liver condition. As his physical condition deteriorated, he began also to have psychological problems, including severe depression. These conditions ultimately caused Cauley to cease working. He filed for workers compensation, claiming that his liver condition was the result of exposure to the toxic chemicals at work, and that his psychological condition was an outgrowth of worry over his physical infirmities.

His treating physician, Dr. Orleans, testified that, in his opinion, Cauley's liver condition was due to chemical exposure in his work environment. Cauley also offered expert evidence that his emotional problems directly arose from his distress over his physical problems. Morton Thiokol had Cauley examined by another physician specializing in liver disorders, Dr. Tamburro, who offered an opinion that Cauley's liver problems arose out of the fact that he was overweight, and were not work-related. On this conflicting evidence, the Administrative Law Judge ruled that Cauley had suffered a work-related and compensable injury and awarded him permanent total disability.

Morton Thiokol appealed this ruling to the full commission. Before the matter came on for consideration by the commission, the record was re-opened to introduce a subsequent deposition by Dr. Orleans. In that second deposition the doctor indicated that, since his earlier testimony, he had

placed Cauley on a dietary regimen that resulted in Cauley losing weight, and had monitored Cauley's liver functions as his weight fluctuated. He said that when Cauley's weight reached the range of 192 to 197 pounds his liver condition stabilized. He testified that based upon these subsequent findings, he agreed with Dr. Tamburro that Cauley's liver condition was not work-related. He said he could not rule out the possibility that chemical exposure at work had worsened Cauley's condition, but was unable to tie the liver condition to his work environment with any more certainty than that. Dr. Tamburro was also re-deposed and testified that Dr. Orleans's subsequent findings confirmed his earlier diagnosis.

The commission, armed with this additional evidence, concluded that Cauley had failed to carry his burden to demonstrate that his medical condition was traceable to his employment and denied benefits.

## II.

### Discussion

The full commission, not the administrative law judge, is the finder of fact in a workers compensation proceeding. *Natchez Equip. Co. v. Gibbs*, 623 So. 2d 270, 273 (Miss. 1993). The conclusions reached by the commission are entitled to deference on appeal to the judiciary, and the court is obliged to affirm if the findings of the commission are supported by substantial evidence in the record. *Walker Mfg. Co. v. Cantrell*, 577 So. 2d 1243, 1245 (Miss. 1991). We are not permitted to re-weigh the evidence to determine where, in our opinion, the preponderance of the evidence lies. *Lanterman v. Roadway Express, Inc.*, 608 So. 2d 1340, 1345 (Miss. 1992).

In this case, there was substantial evidence that Cauley's liver condition was not the result of chemical exposure at work, as he contends. Before the matter was considered by the full commission, even Cauley's own treating physician had changed his earlier diagnosis and concluded that Cauley's physical health problems were properly attributable to a cause other than his work environment. Because Cauley's psychological problems, by all the evidence, arose out of his concern about his deteriorating physical condition and were not directly due to any event or occurrence at work, any emotional disability would likewise not be work-related.

Dr. Orleans's advice to his patient that he not return to work in a field where he would be exposed to the same chemicals appears to have been merely a precautionary measure and is not evidence that earlier exposure was the cause of the health problems that required him to cease working.

There is no basis on this record to disturb the decision of the commission. It is based upon credible testimony by a qualified medical expert and subsequent test results that confirmed this expert's diagnosis. The test results were such that the claimant's own treating physician changed his diagnosis of Cauley's liver condition from being work-related to being a genetic metabolic disorder. This Court is obligated to affirm.

**THE JUDGMENT OF THE CIRCUIT COURT OF JACKSON COUNTY IS AFFIRMED.  
COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.**

**BRIDGES, C.J., THOMAS, P.J., COLEMAN, DIAZ, HERRING, HINKEBEIN, KING,  
PAYNE, AND SOUTHWICK, JJ., CONCUR.**