

IN THE COURT OF APPEALS 12/29/95

OF THE

STATE OF MISSISSIPPI

NO. 94-CC-00171 COA

**CHOCTAW RAILS CONSTRUCTION COMPANY AND UNITED STATES FIDELITY
AND GUARANTY COMPANY**

APPELLANTS

v.

RAY SCHWALL

APPELLEE

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. ROBERT LOUIS GOZA, JR.

COURT FROM WHICH APPEALED: RANKIN COUNTY CIRCUIT COURT

ATTORNEYS FOR APPELLANTS: WILLIAM E. CAVANAUGH, WESLA
SULLIVAN LEECH

ATTORNEY FOR APPELLEE:

J. PEYTON RANDOLPH, II

NATURE OF THE CASE: WORKER'S COMPENSATION

TRIAL COURT DISPOSITION: AFFIRMED COMMISSION'S ORDER

BEFORE BRIDGES, P.J., KING, AND SOUTHWICK, JJ.

KING, J., FOR THE COURT:

This cause is before this Court on an appeal by Choctaw Rails and United States Fidelity and Guaranty Companies of an order of the Mississippi Workers' Compensation Commission, which awarded temporary total disability to the claimant, and held in abeyance a determination of the claimant's right to permanent disability. The Circuit Court of Rankin County affirmed the Commission's order, which is now before this Court on what can only be described as an interlocutory appeal.

This matter is controlled by *Wilson v. Mississippi Employment Security Commission*, which provides that "appeals from state administrative agency hearings are controlled by statute and will only be allowed after entry of a final order." *Wilson v. Mississippi Employment Sec. Comm'n*, 643 So. 2d 538, 540 (Miss. 1994). Because this is not a final order, neither this Court nor the circuit court has jurisdiction to entertain this appeal. *Id.*

We, therefore, dismiss this appeal without prejudice and remand to the Workers' Compensation Commission for further proceedings.

APPEAL DISMISSED WITHOUT PREJUDICE AND REMANDED FOR PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS ARE ASSESSED AGAINST THE APPELLANTS.

FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.