

IN THE COURT OF APPEALS 04/23/96

OF THE

STATE OF MISSISSIPPI

NO. 95-CC-00091 COA

SANDRA JEAN COPELIN

APPELLANT

v.

VALUE CRAFT FURNITURE, INC.

APPELLEE

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

TRIAL JUDGE: HON. THOMAS J. GARDNER, III

COURT FROM WHICH APPEALED: MONROE COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

W. HOWARD GUNN

ATTORNEY FOR APPELLEE:

JOHN S. HILL

MICHAEL D. GREER

NATURE OF THE CASE: WORKERS' COMPENSATION

TRIAL COURT DISPOSITION: MWCC ORDER AFFIRMED

BEFORE THOMAS, P.J., BARBER, AND SOUTHWICK, JJ.

SOUTHWICK, J., FOR THE COURT:

Sandra Copelin was awarded temporary total disability benefits, but denied permanent disability

benefits for a work-related injury to her lower back and left knee. She was further denied compensation for medical expenses relating to her treatment by one physician following maximum medical improvement. Copelin appeals the circuit court's affirmance of this award contending that it is not supported by substantial evidence. We disagree and affirm.

FACTS

Copelin was employed as a seamstress at Value Craft in what she described as not an unreasonably strenuous job. On March 5, 1991, Copelin slipped at work while leaving the restroom. She fell onto her knee and twisted her back, feeling immediate back pain. She was seen by Value Craft's company doctor the week of her injury. He diagnosed a muscle strain and released her to return to work. Copelin continued to complain of back pain and went to see another doctor who had been referred to her by a friend. That doctor released Copelin to return to work at least three times. However, on continued complaints of pain following each release, the doctor would begin his treatment anew. The doctor also referred Copelin to two specialists who ultimately concurred with the doctor's opinion that Copelin needed surgery to correct her condition. An independent medical examination was ordered, and Copelin was examined by a neurosurgeon on September 11, 1991. He diagnosed a muscle strain that had resolved itself without impairment and released Copelin to return to work. Copelin failed to do so and, instead, continued to see her physicians.

Upon reviewing the evidence presented, the workers' compensation administrative judge accepted the opinion of the independent physician and found the testimony of Copelin's doctors to be unpersuasive. Accordingly, the judge found that Copelin had reached maximum medical improvement on September 12, 1991, without impairment and that any medical care rendered after that time was unnecessary and noncompensable. In addition, the judge denied benefits for permanent total disability. Appeals to the commission and to the circuit court were unavailing for Copelin.

DISCUSSION

The deciding issue in this case is whether the denial of permanent disability benefits and the denial of compensation for continued treatment past a date of maximum medical improvement are supported by substantial evidence. We affirm.

Copelin points to the testimony of her physicians and declares it to constitute substantial evidence supporting her position. She argues that the testimony of the other doctors was based on "woefully inadequate" examinations. Value Craft, on the other hand, contends that the opinions of Copelin's physicians are based on a controversial diagnostic tool, i.e., a discogram. It maintains the position that its doctor and the independent physician thoroughly examined Copelin clinically and reviewed, among other things, a CT scan which even one of Copelin's doctors agreed was a much more accurate diagnostic tool than a discogram. The CT scan revealed no structural problem with Copelin's back and was consistent with the diagnosis of a muscle strain.

What the parties have presented to us is a classic controversion of proof on the issues of permanent disability and assigning a date of maximum medical improvement. Coincidentally, the supreme court has considered a case in which two of these same doctors had opposing opinions regarding another patient. *Oswalt v. Abernathy & Clark*, 625 So. 2d 770, 772 (Miss. 1993). In that case, the supreme court explained that a reviewing court "will not determine where the preponderance of the evidence

lies when the evidence is conflicting, the assumption being that the Commission, as the trier of fact, has previously determined which evidence is credible, has weight, and which is not." *Id.* (citation omitted). "[I]f a decision of the Mississippi Workers' Compensation Commission is based on substantial evidence, the circuit court and this Court are bound by the finding of fact made by the Commission." *Id.* (citations omitted). In the face of the conflicting evidence in this case, we defer to the findings of the commission and conclude that they are supported by the substantial evidence.

Further, because of the date of Copelin's maximum medical improvement, the medical care she subsequently received is not reasonable and necessary under workers' compensation law and, consequently, not compensable. Workers' compensation law provides for payment of those medical expenses required by the process of recovery. Miss. Code Ann. § 71-3-15 (1972). The substantial evidence supports the conclusion that the process of recovery had ended on the assigned date of maximum medical improvement and that any further medical treatment would be neither reasonable nor necessary. Accordingly, we conclude that the commission did not err in denying benefits beyond the date of Copelin's recovery.

THE JUDGMENT OF THE MONROE COUNTY CIRCUIT COURT IS AFFIRMED AND ALL COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANT.

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