

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE
July 25, 2002 Session

PHILLIP STEVENSON v. STATE OF TENNESSEE

**Direct Appeal from the Tennessee Claims Commission
No. 20101540 W. R. Baker, Commissioner**

**No. M2001-02522-WC-R3-CV - Mailed - August 26, 2002
Filed - October 31, 2002**

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. In this appeal, the employee insists the commission erred in dismissing his claim for failure to state a claim for which relief can be granted. As discussed below, the panel has concluded the judgment should be vacated and the cause remanded for further proceedings.

**Tenn. Code Ann. § 50-6-225(e) (2001 Supp.) Appeal as of Right; Judgment of the Claims
Commission Vacated; Cause Remanded**

JOE C. LOSER, JR., SP. J., delivered the opinion of the court, in which JANICE M. HOLDER, J., and JAMES L. WEATHERFORD, SR. J., joined.

Ronald W. McNutt, Nashville, Tennessee, for the appellant, Phillip Stevenson

Paul G. Summers, Attorney General and Reporter, Michael Moore, Solicitor General, and Pamela S. Lorch, Assistant Attorney General, Nashville, Tennessee, for the appellee, State of Tennessee

MEMORANDUM OPINION

The employee or claimant, Mr. Stevenson, initiated this claim to recover workers' compensation benefits for a mental injury which he alleged was proximately caused by an accident at work. His complaint states that he is a prison guard and that his injury arose out of a fight that broke out among prison inmates while he was performing his duties as a guard, causing permanent psychological injuries. The state moved to dismiss on the ground that the complaint failed to state a claim for which relief could be granted. The commissioner, stating that "the commission considers that settling a fight between convicts is not 'extraordinary and unusual' for a prison guard," granted the motion and dismissed the complaint. The claimant has appealed. Conclusions of law are subject

to de novo review on appeal without any presumption of correctness. Nutt v. Champion Intern. Corp., 980 S.W.2d 365, 367 (Tenn. 1998).

A mental injury by accident or occupational disease arises out of employment if caused by an identifiable, stressful work-related event producing sudden mental stimulus such as fright, shock or excessive unexpected anxiety, and not by gradual employment stress building over a period of time. Goodloe v. State, 36 S.W.3d 62, 65-66 (Tenn. 2001). Moreover, mental and nervous illnesses are compensable when causally connected to a work-related accident. Gentry v. Dupont, 733 S.W.2d 71, 73 (Tenn. 1987).

A motion to dismiss for failure to state a claim upon which relief can be granted admits the truth of all relevant and material averments contained in the complaint, but asserts that such facts do not constitute a cause of action. Cornpropst v. Sloan, 528 S.W.2d 188 (Tenn. 1975). Moreover, a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief. Sullivant v. Americana Homes, Inc., 605 S.W.2d 246 (Tenn. Ct. App. 1980). Whether a complaint states a claim for which relief may be granted is a question of law.

Taking all his averments as true, we hold that it does not appear beyond doubt that Mr. Stevenson cannot prove any set of facts that would entitle him to relief. While breaking up inmate fights may be within the normal stress of a prison guard, it is a question of fact as to whether the incident itself fell within the normal stress involved in the prison setting or whether the stress was of an unusual or abnormal nature. That determination is necessarily one of fact that should not be resolved on a motion to dismiss. In our view, the complaint states a cause of action.

For the above reasons, the judgment of dismissal is vacated and the cause remanded to the Claims Commission. Costs are taxed to the appellee.

JOE C. LOSER, JR.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

PHILLIP STEVENSON v. STATE OF TENNESSEE

**Tennessee Claims Commission
No. 2010540**

No. M2001-02522-SC-WCM-CV

JUDGMENT ORDER

This case is before the Court upon the motion for review filed by the State of Tennessee pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law. In addition, the Court has granted the appellant's motion for late consideration of his response to the motion for review.

It appears to the Court that the motion for review is not well-taken and is therefore denied. The Panel's findings of fact and conclusions of law, which are incorporated by reference, are adopted and affirmed. The decision of the Panel is made the judgment of the Court.

Costs are assessed to the appellee, the State of Tennessee, for which execution may issue if necessary.

It is so ORDERED.

PER CURIAM

Holder, J., not participating