

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT JACKSON
March 24, 2008 Session

PHILLIP RHOADS v. STATE OF TENNESSEE

**Direct Appeal from the Tennessee Claims Commission
No. 20405448 Nancy C. Miller-Herron, Commissioner**

No. W2007-00803-WC-R3-WC - Mailed July 22, 2008; Filed August 26, 2008

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tennessee Code Annotated section 50-6-225(e)(3) for a hearing and a report of findings of fact and conclusions of law. Phillip Rhoads contended that he was permanently and totally disabled as a result of mental injuries sustained in the course of his employment with the Tennessee Department of Children's Services. The Claims Commission held that Rhoads' condition was not compensable because it was the result of gradual occupational stress, rather than a sudden, identifiable event. Rhoads has appealed, arguing that the Commission erred in finding that he had not sustained a compensable injury. We affirm the judgment.

Tenn. Code Ann. § 50-6-225(e) (Supp. 2007) Appeal as of Right; Judgment of the Claims Commission Affirmed

ALLEN W. WALLACE, SR. J., delivered the opinion of the court, in which JANICE M. HOLDER, J. and DONALD P. HARRIS, SR. J., joined.

Danny R. Ellis, Jackson, Tennessee, for the appellant, Phillip Rhoads.

Robert E. Cooper, Jr., Attorney General and Reporter; Michael Moore, Solicitor General; Mary M. Bers, Senior Counsel, for the appellee, State of Tennessee.

MEMORANDUM OPINION

Factual and Procedural Background

Phillip Rhoads ("Rhoads") worked for the Tennessee Department of Children's Services ("DCS"). On April 25, 2001, he was promoted to Team Coordinator for Tipton, Lauderdale and Fayette Counties. A staff attorney for DCS advised him of an ongoing investigation of possible abuse and neglect of sixteen or more handicapped adopted children living at a home in one of his

counties. This investigation is referred to as the “Stockton case.” Rhoads conducted an inspection of the Stockton home shortly after being advised of the investigation. He considered the situation to constitute abuse. Over the following weeks and months, he sought to have the children removed from the home. His initial attempts to remove the children were not successful. Rhoads testified that he understood his recommendation was declined or held up by “the central office in Nashville.”

Rhoads further testified that, after his initial inspection of the Stockton home, he began having frequent nightmares concerning the safety of the children. Eventually, ten of the sixteen children were removed from the home in December 2001. However, they were returned to the home by court order three days later. At that time, an allegation was made, apparently by Mr. Stockton, the subject of the investigation, that Rhoads had inappropriately touched one of the children. No charges were made against Rhoads by DCS as a result of that allegation.

Rhoads had a conflict with his supervisor, Mildred Lawhorn, and others concerning the handling of the Stockton case. He wrote letters to the Commissioner of Children’s Services and the Governor on the subject. Later, he was removed from the case for failing to observe the chain of command.

Rhoads also received an unfavorable performance evaluation in February 2002. He appealed the evaluation, and it was eventually changed.

In addition to these events, on April 2, 2002, Rhoads received a “due process notice” concerning allegedly inappropriate remarks which he made to some foster children (not related to the Stockton case) at a 2001 Christmas party. Rhoads did not consider the remarks to be inappropriate. It is not clear from the record when he first became aware of this issue. On the day he received the notice, he went to a local crisis center seeking counseling. On April 26, 2002, Ms. Lawhorn met with Rhoads and advised him that he was to be suspended for three days as a result of the Christmas party incident. Later that day, he went to a local hospital with chest pains. He did not return to work for DCS after that date.

Rhoads received psychotherapy from Meryl Rice, a clinical social worker, beginning in April 2002. Ms. Rice testified by deposition. She stated that he “presented with anxiety and depression related to his job stress.” She asked him to describe that stress, and he informed her of the Stockton case, his difficulty in getting the children removed, and the molestation allegations. He also told Ms. Rice that he was worried about losing his job over the comments he made to children at the 2001 Christmas party.

Ms. Rice diagnosed Rhoads with anxiety and depression. She provided psychotherapy for the next two years. Ms. Rice testified on cross-examination that the source of the stress that caused Rhoads’ symptoms was not the work itself, but the criticism of his work and his inability to do what he thought was necessary in his job.

Rhoads was referred in October 2002 to Dr. Charles Rhodes, a psychiatrist. Dr. Rhodes testified by deposition. He stated that his role in Rhoads' treatment was "strictly medication management, trying to help with the symptoms that he was experiencing." His diagnosis was major depressive disorder and post-traumatic stress disorder. Dr. Rhodes opined that these conditions were brought on by extreme job stresses at DCS. He further opined that Rhoads was unable to work as a result of these conditions. On cross-examination, he agreed that Rhoads' job stress had been ongoing, but came to a head in December 2001 when a court ordered the ten children to be returned to the Stockton home and he was removed from that case. Dr. Rhodes also agreed that the sexual abuse allegations, and the disciplinary issue arising from the Christmas party were causes of stress for Rhoads. It is apparent from his testimony that Ms. Rice's notes were Dr. Rhodes' primary source of information concerning Rhoads' situation.

Rhoads was fifty-five years old on the date of the trial. He had a bachelor's degree in religion and English from Harding University in Searcy, Arkansas. He had worked for the Tennessee Department of Corrections as a prison counselor for ten years. He then moved to the Department of Human Services and became part of the Department of Children's Services when that department was created. He had been employed by the State of Tennessee for approximately twenty-seven years prior to April 2002.

Rhoads filed his claim for workers' compensation benefits in September 2004. The Division of Claims Administration denied the claim. Rhoads appealed to the Claims Commission.¹ The Commission ruled that Rhoads' condition was the result of gradual occupational stress, and was therefore not compensable. Rhoads has appealed, asserting that the Commission erred by finding that he had not sustained a compensable psychological injury.

Standard of Review

The standard of review of issues of fact is *de novo* upon the record of the trial court accompanied by a presumption of correctness of the findings, unless the preponderance of evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2) (Supp. 2007). When credibility and weight to be given testimony are involved, considerable deference is given the trial court when the trial judge had the opportunity to observe the witness' demeanor and to hear in-court testimony. *Humphrey v. David Witherspoon, Inc.*, 734 S.W.2d 315 (Tenn. 1987). A reviewing court, however, may draw its own conclusions about the weight and credibility to be given to expert testimony when all of the medical proof is by deposition. *Krick v. City of Lawrenceburg*, 945 S.W.2d 709, 712 (Tenn. 1997); *Landers v. Fireman's Fund Ins. Co.*, 775 S.W.2d 355, 356 (Tenn. 1989). A trial court's conclusions of law are reviewed *de novo* upon the record with no presumption of correctness. *Ridings v. Ralph M. Parsons Co.*, 914 S.W.2d 79, 80 (Tenn. 1996).

¹The State raised the statute of limitations as a defense in its answer, but the issue was discussed only briefly and indirectly, was not addressed by the Commissioner, and has not been raised on appeal.

Analysis

Rhoads claims that the events described above and his “[b]eing overworked, understaffed, under-funded and threatened with loss of employment has [sic] caused my health problems.” Rhoads’s discovery deposition was placed into evidence by the state. In that deposition, he agreed that his claim was based upon a number of encounters and issues that arose between DCS and himself between April 2001 and April 2002.

The Tennessee Workers’ Compensation Law “does not embrace every stress or strain of daily living or every undesirable experience encountered in carrying out the duties of a contract of employment.” *Jose v. Equifax, Inc.*, 556 S.W.2d 82, 84 (Tenn. 1977). For a pure mental injury to be compensable, it must be caused by “an identifiable stressful work-related event producing a sudden mental stimulus such as fright, shock, or excessive unexpected anxiety.” *Goodloe v. State*, 36 S.W.3d 62, 65 (Tenn. 2001). “[W]orry, anxiety, or emotional stress of a general nature’ is not compensable.” *Id.* (quoting *Allied Chemical Corp. v. Wells*, 578 S.W.2d 369, 372 (Tenn. 1979).

Rhoads argues that his symptoms were triggered by the conditions that he observed at the Stockton home on April 25, 2001. That position, however, is not borne out by the medical testimony or by his own account of events. Neither Dr. Rhodes nor Ms. Rice gave any testimony that provides even remote support for a theory that Rhoads was traumatized by what he witnessed on that date. Moreover, Rhoads did not seek treatment of any sort until almost a year after that event occurred. Rhoads’ testimony likewise reflects a gradual increase in his anxiety and then depression as a result of a series of events that took place over the course of a year. He had a difficult relationship with his immediate supervisor. He received an unfavorable performance evaluation and pursued a grievance concerning that evaluation. He was investigated and ultimately disciplined for his remarks at the 2001 Christmas party. In light of the foregoing, we conclude that the Commission’s decision is supported by ample evidence.

Conclusion

The judgment of the Claims Commission is affirmed. Costs are taxed to the appellant, Phillip Rhoads, and his surety, for which execution may issue if necessary.

ALLEN W. WALLACE, SENIOR JUDGE

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT JACKSON

March 24, 2008 Session

PHILLIP RHOADS v. STATE OF TENNESSEE

Tennessee Claims Commission

No. 20405448

No. W2007-00803-WC-R3-WC - Filed August 26, 2008

JUDGMENT ORDER

This case is before the Court upon 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, which are incorporated herein by reference;

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs on appeal are taxed to the Appellant, Phillip Rhoads, and his surety, for which execution may issue if necessary.

IT IS SO ORDERED.

PER CURIAM