COURT OF APPEALS OF ARIZONA, DIVISION ONE

Douglas v. Montecito/Safety

Douglas · No. 1 CA-IC 24-0034 · Decided December 30, 2025

SUMMARY

The Arizona Court of Appeals set aside an Industrial Commission award calculating Sheila Douglas's average monthly wage using nearly the entire 2021 calendar year. The court held that the selected period did not realistically reflect her earning capacity at the time of injury, given her recent transition from part-time LPN employment to full-time RN employment at a higher wage.

CASE DETAILS

COURT	Court of Appeals of Arizona, Division One
WRITING FOR THE COURT	Michael J. Brown; Presiding Judge Anni Hill Foster; Judge Paul J. McMurdie
JURISDICTION	Arizona Court of Appeals, Division One
DECIDED	December 30, 2025
DOCKET	1 CA-IC 24-0034
DISPOSITION	other
PROCEDURAL POSTURE	Special action review of an Industrial Commission of Arizona workers' compensation award calculating Sheila Douglas's average monthly wage.
STANDARD OF REVIEW	The court defers to the ALJ's factual findings but reviews questions of law de novo. Because the material facts were undisputed, the court applied the law to those facts without deference to the ALJ.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Sheila Douglas v. The Industrial Commission of Arizona, Montecito Post Acute Care & Rehabilitation, Safety National Casualty Corp.

TOPICS

workers compensation · judicial review of agency action · standard of review · appellate procedure · administrative law

PRACTICE AREAS

workers compensation · administrative law · appellate procedure

QUESTIONS PRESENTED

1. Whether the Industrial Commission and ALJ properly calculated Douglas's average monthly wage under A.R.S. § 23-1041(A) by using her earnings over nearly the entire preceding year.
2. Whether the selected wage-calculation period realistically reflected Douglas's actual monthly earning capacity at the time of her injury.
3. Whether the court could remand the matter with instructions concerning the proper calculation period or was limited to affirming or setting aside the award.

HOLDINGS

1. An ALJ may use a timeframe other than the presumptive 30-day period when necessary to achieve a reasonable representation of the injured worker's average monthly wage, but the selected timeframe must realistically reflect the worker's actual monthly earning capacity at the time of injury. Using nearly the entire calendar year, including the worker's prior lower-paid, part-time LPN employment, did not satisfy that requirement after the worker had become a full-time RN.
2. The ALJ could not disregard Douglas's full-time employment status based on speculation unsupported by evidence that her status would change after she began her RN position.
3. The court was limited to affirming or setting aside the award and therefore declined to remand with instructions directing the ALJ how to calculate Douglas's average monthly wage.

KEY QUOTATIONS

> *"Because the ALJ's selected timeframe failed to account for what the injured worker was reasonably capable of earning, we set aside the award."* (¶1)

> *"the wage base should realistically reflect a claimant's actual monthly earning capacity."* (¶10)

> *"using the salary Douglas earned through a time she was earning less and working fewer hours "would grossly distort [her] 'actual earning capacity.'""* (¶13)

> *"Because the timeframe the ALJ applied to calculate Douglas' pre-injury average monthly wage does not properly reflect her actual earning capacity at the time she was injured, we set aside the award."* (¶17)

FACTUAL BACKGROUND

Sheila Douglas had worked primarily as a full-time licensed practical nurse for Montecito, but temporarily changed to part-time or as-needed status while attending nursing school. After becoming licensed as a registered nurse in September 2021, she was promoted to RN, received an increase from $32.96 to $36 per hour, and was reclassified as a full-time employee effective October 30, 2021. She began working full-time hours on December 1 and was injured on December 17 when a patient kicked her in the head. The employer and carrier calculated her average monthly wage using nearly the entire preceding year, which included her lower-paid, part-time LPN work.

PROCEDURAL HISTORY

The Industrial Commission approved the employer and carrier's calculation of Douglas's average monthly wage using her earnings from January 1 through December 15, 2021. After an evidentiary hearing, the administrative law judge affirmed the calculation and the award on review. Douglas filed a statutory special action in the Arizona Court of Appeals, which set aside the award.

DISPOSITION

other

CASES CITED

- Young v. Industrial Commission, 204 Ariz. 267, 270, ¶14 (App. 2003)
- Ibarra v. Industrial Commission, 245 Ariz. 171, 174, ¶12 (App. 2018)
- Zapien v. Industrial Commission, 12 Ariz. App. 334, 336 (1970)
- Kennecott Copper Corp. v. Industrial Commission, 61 Ariz. 382, 385 (1944)
- Lowry v. Industrial Commission, 195 Ariz. 398, 400 (1999)
- Swift Transportation v. Industrial Commission, 189 Ariz. 10, 11-13 (App. 1996)
- Malinski v. Industrial Commission, 103 Ariz. 213, 217 (1968)
- Franco v. Industrial Commission, 130 Ariz. 37, 40 (App. 1981)
- Garcia v. Industrial Commission, 26 Ariz. App. 313, 315 (1976)