

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, STARK
COUNTY

Del Rosario v. Fresh Mark, Inc.

2026-Ohio-274 · No. 2025-CA-00076 · Decided January 29, 2026

SUMMARY

The Ohio Fifth District Court of Appeals affirmed summary judgment for Fresh Mark, Inc. in a workers' compensation dispute arising from an employee's workplace injury and positive marijuana test. The court held that the employer was proceeding under R.C. 4123.54(A)(2), rather than invoking the rebuttable presumption under subsection (B), making the statutory requirements for a qualifying chemical test irrelevant; the undisputed evidence established marijuana impairment and proximate cause.

CASE DETAILS

COURT	Court of Appeals of Ohio, Fifth Appellate District, Stark County
WRITING FOR THE COURT	Andrew J. King, P.J.; William B. Hoffman, J.; Kevin W. Popham, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Stark County
DECIDED	January 29, 2026
DOCKET	2025-CA-00076
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the Stark County Court of Common Pleas granting Fresh Mark summary judgment and denying the appellant's workers' compensation claim.
STANDARD OF REVIEW	De novo review of summary judgment under Civ.R. 56, standing in the place of the trial court and applying the same standards and evidence.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Rolando Del Rosario v. Fresh Mark, Inc., Bureau of Workers' Compensation

TOPICS

- workers compensation
- summary judgment
- evidence
- appellate procedure
- administrative law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court erred in granting summary judgment to Fresh Mark under R.C. 4123.54(A)(2) based on evidence that Del Rosario was under the influence of marijuana and that the impairment proximately caused his workplace injury.
2. Whether the drug screen qualified as a qualifying chemical test under R.C. 4123.54(C).

HOLDINGS

1. The qualifying-chemical-test requirements of R.C. 4123.54(C) were irrelevant because Fresh Mark did not invoke the rebuttable presumption under R.C. 4123.54(B) and instead proceeded under R.C. 4123.54(A)(2).
2. Summary judgment for Fresh Mark was proper because the undisputed evidence established that Del Rosario was under the influence of marijuana and that the impairment was the proximate cause of his workplace injury.

KEY QUOTATIONS

“We find because Fresh Mark did not pursue a rebuttable presumption under subsection (B), Del Rosario's arguments related to a qualifying chemical test are irrelevant.” (¶ 16)

“Upon review of the undisputed evidence in a light most favorable to Del Rosario, we do not find any genuine issues of material fact to exist regarding his use of marijuana and that the use was the proximate cause of the accident, thus precluding his claim for workers' compensation benefits under R.C. 4123.54(A)(2).” (¶ 24)

FACTUAL BACKGROUND

On March 19, 2024, Rolando Del Rosario suffered serious injuries to his left hand when his work glove became caught under a conveyor belt while he was working for Fresh Mark. A urine drug screen performed approximately two hours after the accident was positive for marijuana metabolites at 719 ng/mL, forty-eight times the stated confirmation cutoff, and there was no evidence of a physician's prescription. Fresh Mark's medical expert opined that Del Rosario was impaired and that the impairment was the proximate cause of the accident. Del Rosario offered no evidence refuting the drug-test results or the expert opinion.

PROCEDURAL HISTORY

Del Rosario filed a workers' compensation claim after suffering hand injuries in a workplace accident. The Industrial Commission district and staff hearing officers denied the claim, and a further appeal to the Commission was refused. Del Rosario then appealed to the Stark County Court of Common Pleas, which granted Fresh Mark's motion for summary judgment under R.C. 4123.54(A)(2). The Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Zimmerman v. Tompkins, 75 Ohio St. 3d 447, 448 (1996)
- State ex rel. Parsons v. Fleming, 68 Ohio St. 3d 509, 511, 628 N.E.2d 1377, 1379 (1994)
- Temple v. Wean United, Inc., 50 Ohio St. 2d 317, 327, 364 N.E.2d 267, 274 (1977)
- Leech v. Schumaker, 2015-Ohio-4444, ¶ 13 (5th Dist.)
- Celotex Corp. v. Catrett, 477 U.S. 317, 330 (1986)
- Dresher v. Burt, 75 Ohio St. 3d 280, 293 (1996)
- Williams v. First United Church of Christ, 37 Ohio St. 2d 150 (1974)
- Grafton v. Ohio Edison Co., 77 Ohio St. 3d 102, 105 (1996)
- Szakal v. Akron Rubber Development, 2003-Ohio-6820 (9th Dist.)

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