

SUPREME COURT OF SOUTH CAROLINA

Pilgrim v. Eaton

391 S.C. 24 (2010) · Decided December 15, 2010

SUMMARY

The South Carolina Court of Appeals held that Rufus Revis remained a statutory employer of Danny Pilgrim under the South Carolina Workers’ Compensation Act because he continued to own and operate the construction business and acted as the general contractor. The court affirmed the workers’ compensation commission’s statutory-employer determination. It reversed the commission’s calculation of Pilgrim’s average weekly wage and remanded for compliance with South Carolina Code section 42-1-40.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Few; Justice Thomas; Justice Pieper
JURISDICTION	South Carolina
DECIDED	December 15, 2010
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a circuit court judgment affirming a South Carolina Workers' Compensation Commission decision awarding Pilgrim temporary total disability benefits and finding Revis and Eaton liable as statutory employers.
STANDARD OF REVIEW	For jurisdictional facts concerning statutory-employer status, the appellate court independently makes its own findings according to the preponderance of the evidence after thoroughly reviewing the entire record. For the average-weekly-wage calculation, reversal is authorized when substantial rights have been prejudiced by an error of law or when factual findings are clearly erroneous in view of the reliable, probative, and substantial evidence.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential.
PARTIES	Rufus Revis, Billy Eaton v. Danny Pilgrim

TOPICS

- workers compensation
- administrative law
- statutory interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

workers compensation

administrative law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether Rufus Revis remained a statutory employer of Pilgrim and was jointly liable with Eaton under the Workers' Compensation Act.
2. Whether the Workers' Compensation Commission properly calculated Pilgrim's average weekly wage by multiplying his hourly wage by a forty-hour week.
3. Whether the burden of proof regarding the amount of average weekly wage was properly before the court.

HOLDINGS

1. Revis remained an owner and operator of Just Garages Plus at the time of Pilgrim's injury and was therefore jointly liable with Eaton as Pilgrim's statutory employer.
2. The Commission committed an error of law by calculating Pilgrim's average weekly wage as \$18 multiplied by a forty-hour week without applying one of the methods authorized by section 42-1-40 or making the factual findings required for an alternative method.
3. The court did not decide which party bears the burden of proof concerning the amount of average weekly wage.

KEY QUOTATIONS

“On these unique facts, we hold that Revis did not sell the business. Rather, he remained one of its owners and operators.” (391 S.C. at 43)

“We hold the commission’s failure to correctly apply section 42-1-40 was an error of law that prejudiced substantial rights of Appellants.” (391 S.C. at 51)

“The commission must first determine which method to use in calculating Pilgrim’s average weekly wage, and make factual findings on the existence of the conditions that warrant the use of the method chosen.” (391 S.C. at 51)

FACTUAL BACKGROUND

Danny Pilgrim began working for Sean Kern on January 25, 2005, on a garage-construction job performed for Billy Eaton's business, Just Garages Plus. Pilgrim fell from the garage roof on January 28, 2005, and seriously injured his back after working only 29.5 hours at \$18 per hour. Rufus Revis had previously owned the business, sold an interest to Eaton, and remained involved as the licensed contractor who obtained permits and continued operating the business. The Commission treated both Revis and Eaton as statutory employers and calculated Pilgrim's average weekly wage by multiplying \$18 by a forty-hour week.

PROCEDURAL HISTORY

The Workers' Compensation Commission found that Pilgrim sustained a work-related injury, awarded temporary total disability benefits, and determined that both Eaton and Revis were statutory employers. The circuit court affirmed the Commission on both the statutory-employer and average-weekly-wage issues. The Supreme Court of South Carolina affirmed the statutory-employer determination but reversed the wage calculation and remanded to the Commission.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Commission must determine whether to allow additional evidence or decide from the existing record; select the appropriate method under S.C. Code Ann. § 42-1-40; make factual findings establishing the conditions warranting that method; calculate Pilgrim's average weekly wage using the applicable wage data; and set the compensation rate accordingly. If it relies on S.C. Code Ann. Regs. § 67-1603, it must state that expressly in its written decision.

CASES CITED

- Glass v. Dow Chem. Co., 325 S.C. 198, 482 S.E.2d 49 (1997)
- Forrest v. A.S. Price Mech., 373 S.C. 303, 644 S.E.2d 784 (Ct. App. 2007)
- Clade v. Champion Labs., 330 S.C. 8, 496 S.E.2d 856 (1998)
- Bartley v. Allendale County Sch. Dist., 381 S.C. 262, 672 S.E.2d 809 (Ct. App. 2009)
- Shealy v. Algernon Blair, Inc., 250 S.C. 106, 156 S.E.2d 646 (1967)
- Marlow v. E.L. Jones & Son, Inc., 248 S.C. 568, 151 S.E.2d 747 (1966)
- Chavis v. Watkins, 256 S.C. 30, 180 S.E.2d 648 (1971)
- Shuler v. Tri-County Elec. Co-op., Inc., 385 S.C. 470, 684 S.E.2d 765 (2009)
- Hill v. Eagle Motor Lines, 373 S.C. 422, 645 S.E.2d 424 (2007)
- Steele v. Self Serve, Inc., 335 S.C. 323, 516 S.E.2d 674 (Ct. App. 1999)
- Stephenson v. Rice Servs., Inc., 323 S.C. 113, 473 S.E.2d 699 (1996)
- Bennett v. Gary Smith Builders, 271 S.C. 94, 245 S.E.2d 129 (1978)
- Sellers v. Pinedale Residential Ctr., 350 S.C. 183, 564 S.E.2d 694 (Ct. App. 2002)
- Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 513 S.E.2d 843 (1999)