

SUPREME COURT OF MISSISSIPPI

Erika L. Felter v. Floorserv, Inc., The Employers’ Fire Insurance Company, and One Beacon Insurance

No. 2010-CT-01793-SCT · No. No. 2010-CT-01793-SCT · Decided September 28, 2010

SUMMARY

The Mississippi Supreme Court considered whether a workers’ compensation claimant’s appeal to the full Mississippi Workers’ Compensation Commission was timely when her attorney moved to withdraw on the final day of the statutory appeal period and the administrative judge granted her an additional thirty days to prosecute the claim. The court held that these unique circumstances permitted the appeal to be treated as timely, reversed the lower decisions, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Kitchens, Justice; Waller, C.J.; Dickinson, P.J.; Pierce, J.; King, J.; Coleman, J.; Randolph, P.J.; Lamar, J.; Chandler, J.
JURISDICTION	Mississippi
DECIDED	September 28, 2010
DOCKET	No. 2010-CT-01793-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Felter sought review by the full Mississippi Workers’ Compensation Commission of an administrative judge’s adverse decision. The Commission dismissed the appeal as untimely, the Adams County Circuit Court affirmed, and the Mississippi Court of Appeals affirmed. The Mississippi Supreme Court granted certiorari and reversed and remanded.
STANDARD OF REVIEW	The Supreme Court reviewed the timeliness and jurisdictional effect of Felter’s appeal to the full Commission under the governing statute, Commission rules, and case law.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; en banc decision.
PARTIES	Erika L. Felter v. Floorserv, Inc., The Employers’ Fire Insurance Company, One Beacon Insurance

TOPICS

workers compensation

appellate procedure

appellate jurisdiction

administrative law

employment law

PRACTICE AREAS

workers compensation

appellate procedure

administrative law

employment law

QUESTIONS PRESENTED

1. Whether an administrative judge may grant a claimant a reasonable extension of the twenty-day period for appealing an adverse administrative-judge decision to the full Mississippi Workers' Compensation Commission when the claimant's attorney moves to withdraw during that period.
2. Whether Felter's notice of appeal, filed within the additional period granted by the administrative judge, was timely.

HOLDINGS

1. When a claimant's attorney moves to withdraw within the twenty-day period for appealing an administrative judge's decision to the full Commission, and the administrative judge grants the withdrawal and a reasonable extension of time to appeal, an appeal filed within that additional period is timely under the unique facts presented.
2. Felter's March 4, 2009, appeal to the full Commission was timely because it was filed within the thirty-day extension granted by the administrative judge.

KEY QUOTATIONS

"After an administrative judge (AJ) rules on a claimant's petition to controvert a workers' compensation claim, the claimant has twenty days to file a notice of appeal with the full Mississippi Workers' Compensation Commission (Commission)." (§1)

"When an attorney for a claimant moves to withdraw as counsel within the twenty-day time period to file a notice of appeal with the Commission, and the administrative judge grants the motion and further grants the claimant a reasonable extension of time to appeal her case, an appeal to the full Commission is timely when it is filed within that additional time period." (§9)

FACTUAL BACKGROUND

Erika Felter was injured in a motor-vehicle accident while working as a territorial manager for Floorserv, Inc. After she filed a workers' compensation petition, an administrative judge ruled against her on January 9, 2009. On January 29, the last day of the twenty-day appeal period, her attorney mailed a motion to withdraw; the administrative judge granted the motion on February 19 and gave Felter thirty additional days to obtain counsel or prosecute her claim. Felter, proceeding pro se, filed her appeal to the full Commission on March 4, within the additional thirty-day period.

PROCEDURAL HISTORY

Felter filed a workers' compensation petition to controvert. An administrative judge ruled against her on January 9, 2009. Her attorney mailed a motion to withdraw on the last day of the twenty-day appeal period; the administrative judge later granted the motion and allowed Felter thirty additional days to obtain representation or prosecute her claim. Felter filed her appeal to the full Commission within that additional period, but the Commission dismissed it as untimely. The circuit court and Court of Appeals affirmed before the Supreme Court reversed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Mississippi Workers' Compensation Commission to hear Felter's appeal and for further proceedings consistent with the opinion.

CASES CITED

- Marlboro Shirt Co. v. Whittington, 195 So. 2d 920, 921 (Miss. 1967)
- Ford v. KLLM, Inc., 909 So. 2d 1194, 1196 (Miss. Ct. App. 2005)
- Williams v. Furniture Land, 637 So. 2d 191 (Miss. 1994)
- In re Clark, 25 So. 3d 728 (La. 2009)
- The Mississippi Bar v. Robert E. Clark, 2010-BD-00111-SCT (Aug. 5, 2010)