

1994

W. Franklin Stoddard, Water Well and Exploration Drilling v. Gregory Lynn Biddle and Utah Industrial Commission : Reply Brief

Utah Court of Appeals

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IN THE COURT OF APPEALS OF THE STATE OF UTAH

W. FRANKLIN STODDARD, dba
WATER WELL & EXPLORATION
DRILLING,

Petitioner,

vs.

GREGORY LYNN BIDDLE and the
UTAH INDUSTRIAL COMMISSION,

Respondents.

Court of Appeals

Case No. ~~930740 CA~~

Industrial Commission

No. 900000986

Priority No. 7

940454-CA

REPLY BRIEF OF PETITIONER W. FRANKLIN STODDARD

APPEAL FROM ORDER DENYING MOTIONS FOR REVIEW
OF THE STATE INDUSTRIAL COMMISSION

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NO. 940454

FILED

FEB 10 1995

COURT OF APPEALS

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No new citations to add to prior brief.

STATEMENT OF JURISDICTION

This court has jurisdiction to review this matter pursuant to Section 35-1-86, U.C.A., (1953, as amended).

STATEMENT OF REPLY BRIEF ISSUES

1. Whether the original claim was of "doubtful compensability" as evidenced by the Stipulation of the parties, the approval by the commission of that Stipulation and the facts of the case.

DETERMINATIVE STATUTORY OR CONSTITUTIONAL PROVISIONS

No new provisions in addition to those previously submitted.

STATEMENT OF THE CASE

Respondent Gregory Lynn Biddle received injuries which he claimed were in the course of his employment with Petitioner. Petitioner/employer filed a response claiming that respondent was not within the course of his employment at the time of the injury. Just prior to a hearing on the matter in 1991, the parties settled the matter by the Petitioner agreeing to pay the sum of \$5,100 toward respondent's medical expenses. A Stipulation to that effect was submitted providing for a dismissal with prejudice. The Commission through the ALJ

1 approved the settlement. Thereafter in 1993, respondent once again applied for
2 benefits in the same matter. A hearing was held and the ALJ determined that
3 the Stipulation was not binding, the respondent was acting in the course of his
4 employment at the time of the injury and granted benefits. The ALJ further
5 determined that the employer had no funds to pay the award and ordered the
6 Uninsured Fund to cover the amounts due. The portion of the decision dealing
7 with the Stipulation and the question as to whether claimant was acting within the
8 course of his employment was appealed by both the Uninsured Fund and the
9 Petitioner. The commission upheld the determination that the earlier Stipulation
10 was not binding on the respondent even though he was represented by counsel
11 and further upheld the finding that the respondent was acting in the course of his
12 employment at the time of the injury.

13

14 STATEMENT OF FACTS

15 The facts which are relevant to this reply brief are as follows:

16 1. In the fall of 1989, the applicant, Gregory Lynn Biddle, went to work
17 for the defendant, W. Franklin Stoddard, dba Water Well & Exploration Drilling
18 (p. 15, line 2).

19 2. Mr. Biddle was only hired to work on certain specific drilling sites and
20 Stoddard paid him only for the time that he was at the site (p. 27, lines 17-24; p.
21 28, lines 17-20).

22

1

2 4. On June 4, 1990, Stoddard gave Biddle a ride to work. They stopped
3 on the way because Stoddard wanted to give one of his cousins a hand setting up
4 a drill rig. Without being asked, Biddle decided that he, too, would lend a hand
5 and give Stoddard's cousin a hand setting up the drill rig (p. 28, lines 7-23).

6 5. While Biddle was gratuitously helping Stoddard's cousin, he crushed the
7 ring and middle fingers of his left hand (p. 18, lines 12-15).

8 6. In October, 1990, Biddle and his attorney, one Gregory Skabelund, filed
9 an application for hearing claiming that Biddle was entitled to payment of medical
10 expenses incurred as a result of the accident, temporary total compensation, and
11 permanent total disability (record index pps 1-6).

12 7. Stoddard vigorously contested the application, retained counsel and
13 filed an answer to the application on November 13, 1990 (record index pps 8-9).

14 10. At a hearing on the application, an oral stipulation was reached and
15 later, both parties and their lawyers signed a stipulation. It is on file in the
16 Commission's record and states, in pertinent part (records index pps 12-14),

17 "The parties in the above entitled action, hereby stipulate that W.
18 Franklin Stoddard dba Water Well and Exploration Drilling will pay
19 the medical expenses of the Applicant, Gregory Lynn Biddle, in a
20 sum not to exceed \$5,100.
21 Following said payment, applicant agrees that this action shall be dismissed
22 with prejudice."

23 An order was appended to the stipulation. One of the Commission's
24 administrative law judges signed the order which read:

25

1 "IT IS HEREBY ORDERED that pursuant to the above
2 stipulation, that W. Franklin Stoddard dba Water Well Exploration
3 Drilling pay all of Applicant's uninsured medical expenses incurred
4 as a result of the industrial accident dated the 4th of June, 1990, as
5 outlined below up to \$5,100: ..."
6

7 12. On July 14, 1992, some two years after the accident, in spite of the
8 earlier dismissal with prejudice, Biddle filed a second application for benefits
9 (record index p 36). He claimed that he was entitled to payment for temporary
10 total compensation, medical expenses and permanent partial disability suffered as
11 a result of the accident.
12

13 SUMMARY OF ARGUMENTS

14 Applicant argues that both Mr. Stoddard and Mr. Biddle believed that Mr.
15 Biddle was entitled to benefits and that liability was in fact not doubtful.

16 It is clear from the record and even from applicant's brief that there was
17 ample reason why the employer did not believe that applicant was entitled to
18 benefits since he was not working for Stoddard at the time of the injury.
19

20 ARGUMENT

21
22 It was undisputed that when Biddle was injured, he was not working at
23 Stoddard's well site. Biddle knew this was not the well he was being taken to
24 work on. In spite of this knowledge, Biddle voluntarily and without being asked,
25 decided to help Mr. Stoddard's cousin with his rig and was injured.

1 Biddle was arguably acting outside of his employment relationship when his
2 injury occurred and this is not a compensable accident.

3 Counsel appears to be arguing that Biddle did not believe the claim to
4 have any weaknesses. This claim flies in the face of reality. It is clear from the
5 record that the employer vehemently denied liability, there was a hearing
6 scheduled, the case was settled for a limited amount of medical reimbursement
7 and the Industrial Commission approved the settlement.

8 An applicant should not be able to change his mind about a settlement and
9 then claim that he did not view his case as one of doubtful compensability when it
10 was clearly one in which good faith arguments could be and were made that
11 compensation was not appropriate.

12 Finally, it should be remembered that the applicant was represented by
13 counsel at the time he signed the stipulation agreeing to a dismissal of his
14 application for hearing. There has been no claim by Biddle that his counsel was
15 incompetent. Biddle now says that he didn't know what he was doing. If that is
16 the case, it sounds suspiciously like buyer's remorse.

17

18 CONCLUSION

19

20 When the record of the application and the response is clear that
21 compensability was vigorously disputed under a good faith theory and settlement
22 of the claim was approved by the commission, applicant should not now be able

1 to claim he did not view the claim as one of doubtful compensability. Further,
2 applicant was not representing himself. He was represented throughout. The
3 case was settled for a limited amount of medical reimbursement with no amount
4 to be paid for future medicals or disability. A denial of compensation was
5 obviously a definite possibility. The fact that a later ALJ found compensation to
6 be appropriate does not change that fact.

Dated this 10th day of Feb., 1995.



ROGER F. BARON
ATTORNEY FOR PETITIONER

CERTIFICATE OF MAILING

I hereby certify that I mailed four copies of the foregoing REPLY BRIEF
OF PETITIONER this 10th day of Feb., 1995, postage prepaid to
the following:

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