

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G800101

ROBERT T. ARCHIBALD, EMPLOYEE CLAIMANT

BUTTERBALL, LLC, EMPLOYER RESPONDENT NO. 1

ACE AMERICAN INSURANCE CO./
ESIS INC., INSURANCE CARRIER RESPONDENT NO. 1

DEATH & PERMANENT TOTAL DISABILITY
TRUST FUND RESPONDENT NO. 2

OPINION FILED MARCH 5, 2020

Upon review before the Full Commission in Little Rock, Pulaski County,
Arkansas.

Claimant represented by the HONORABLE WILLIAM C. FRYE, Attorney at
Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE MICHAEL RYBURN,
Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE DAVID L. PAKE,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals the Administrative Law Judge's Opinion
filed October 8, 2020, in which the Administrative Law Judge made the
following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction
over this claim.
2. An employer-employee relationship existed on October 9, 2017, the
date of the claimed injuries. Claimant earned sufficient wages for the
maximum compensation rate of \$661 per week.

3. Claimant has failed to prove by a preponderance of the evidence that he was performing work-related services at the time of the incident, that he suffered a physical injury to his body, and that he was a victim of violence at the time. Consequently, the claim is not compensable.
4. The remaining issues are moot.
5. If not already paid, Respondents are ordered to pay the cost of the transcript forthwith.

We have carefully conducted a *de novo* review of the entire record and find that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

CONCURRING OPINION

After my *de novo* review of the entire record, I concur with the majority opinion finding that the claimant has failed to prove by a preponderance of the evidence that he was performing work-related services at the time of the incident; that he suffered a physical injury to his body; that he was a victim of violence at the time; and that, consequently, the claim is not compensable. I write separately to clarify, for the benefit of the claimant.

I found the claimant's testimony to be credible; however, I do not believe that the requirements found in Ark. Code Ann. §11-9-113 have been satisfied. Since the only abnormalities in the claimant's lab report were high cholesterol and high triglycerides, there were no objective signs of physical injury. The one exception to the requirement that the claimant's mental injury be caused by his physical injury is when the claimant is a victim of a crime of violence. It does not appear that the criminal act alleged in this case falls within that category. Therefore, I am constrained to agree with the majority.

For the foregoing reason, I concur with the majority opinion.

M. Scott Willhite, Commissioner