

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H501827

EARNESTINE JACKSON, EMPLOYEE

CLAIMANT

ST. FRANCIS AREA DEV. CTR., INC., EMPLOYER

RESPONDENT

**ATA WORKERS' COMP. SI TRUST, CARRIER/
RISK MANAGEMENT RESOURCES, TPA**

RESPONDENT

OPINION FILED SEPTEMBER 8, 2025

Hearing before Administrative Law Judge, Steven Porch, on August 1, 2025, in Forrest City, Arkansas.

Claimant was *Pro Se*, Hughes, Arkansas.

Respondents were represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A full hearing was held on this claim on August 1, 2025. A prehearing telephone conference took place on June 11, 2025. A prehearing order was entered on that date and subsequently entered into evidence as Commission Exhibit 1. The parties' stipulations are set forth.

STIPULATIONS

By agreement of the parties, the stipulations applicable to this claim are as follows:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. An employer/employee/carrier relationship existed among the parties on December 22, 2024, when Claimant allegedly sustained a compensable injury resulting in Post Traumatic Stress Disorder.
3. Respondents denied the claim in its entirety.
4. The parties stipulate to Claimant's average weekly wage of \$278.68 entitling her to temporary total disability (TTD) benefit rate of \$186.00 weekly, and her permanent partial disability (PPD) benefit rate of \$154.00 weekly.

The parties have identified the following issues to be adjudicated:

1. Whether Claimant suffered a compensable injury in the form of Post Traumatic Stress Disorder (PTSD) by specific incident.¹
2. Whether Claimant is entitled to reasonable and necessary medical treatment and related expenses.
3. Whether Claimant is entitled to Temporary Total Disability (TTD) benefits from December 23, 2024, to May 17, 2025.

All other issues are reserved.

CONTENTIONS

Claimant contends:

The client ate his dinner around 1:30 a.m. He got up and pushed me over on the couch and started humping on me.

Respondents contend:

That Claimant did not suffer a compensable mental injury under the Arkansas Workers' Compensation Act. Alternatively, respondents contend that in the event compensability is found, the medical documentation does not support the entitlement to benefits associates with such injury, nor do they support entitlement to indemnity benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Therefore, after a thorough consideration of the facts, issues, the applicable law, and the evidentiary record, I hereby make the following Findings of Fact and Conclusions of Law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.

¹ This issue was slightly amended by the Commission, without objection from the parties, so that it would be clear and precise.

2. The stipulations set forth above are reasonable and are hereby accepted.
3. The Claimant has not proven by the preponderance of the evidence that she suffered a compensable injury in the form of PTSD by specific incident.
4. Based on my findings of no compensability, the remaining issues of reasonable and necessary medical treatment, and temporary total disability benefits are moot and will not be addressed in this opinion.

CASE IN CHIEF

Summary of Evidence

The record is made up of Claimant's Exhibit 1, medical bills and records, consisting of 21 pages, Claimant's Exhibit 2, medical records, that consists of 38 pages, Claimant's Exhibit 3, police report, consisting of 2 pages, Respondents' Exhibit 1, medical records, that consist of 17 pages, and Commission Exhibit 1, Pre-Hearing Order filed June 11, 2025, that consists of 5 pages. The Claimant, Melissa Ward, and Gregory Gordan were the witnesses that testified at the full hearing.

Claimant was employed as a direct support professional for the Respondent/Employer. The Claimant was responsible for caring for elderly patients who had mental difficulties. On December 22, 2024, Claimant was tending to a patient named Shilford "Paw-Paw" Anderson, when he pushed her onto a couch and began to hump her, on the left side of her body, in a sexual manner. The Claimant screamed for help which caused Mr. Anderson to stop and leave the area. The Claimant testified that this attack went on for approximately 1 minute. TR 20-21. The Claimant testified that she thought she was fine until she saw Mr. Anderson and began to feel uneasy. TR 22. The Claimant testified that she has never been sexually assaulted, and that this situation was a lot on her. TR 21

The Claimant eventually went to Arisa Health, in West Memphis, Arkansas and was diagnosed by Sabrina Lewis, a mental health care worker, with PTSD on February 11, 2025. Respondents Ex. 1, pp. 12, 16. The Claimant received follow-up treatment by Joseph Labonte, a

nurse practitioner, on March 13, 2025, who noted that Claimant's PTSD was stable. *Id.* Anita Kirby, case manager, signed off on Mr. Labonte's report. *Id.* All of Claimant's mental health treatment for this work-related incident involved the aforementioned individuals. *See* Claimant's Ex. 2.

Adjudication

A. Whether Claimant suffered a compensable injury in the form of Post Traumatic Stress Disorder by specific incident.

Under Arkansas Code Annotated § 11-9-113(a) (Repl. 2012) provides:

(a)(1) A mental injury or illness is not a compensable injury unless it is caused by physical injury to the employee's body, and shall not be considered an injury arising out of and in the course of employment or compensable unless it is demonstrated by a preponderance of the evidence; provided, however, that this physical injury limitation shall not apply to any victim of a crime of violence.

(2) No mental injury or illness under this section shall be compensable unless it is also diagnosed by a licensed psychiatrist or psychologist and unless the diagnostic of the condition meets the criteria established in the most current issue of the Diagnostic and Statistical Manual of Mental Disorders ["DSM"].

Based on § 11-9-113(a)(1) the Claimant must prove that the alleged condition was caused by a physical injury to her body. The exception to the physical injury requirement is a "crime of violence" which has been alleged to have occurred here. The Claimant testified that she was pushed onto a couch by a patient and humped in a sexual manner against her will. Claimant testified that she screamed, and the episode continued for approximately 1 minute. TR 19-21. I credit Claimant's statement. According to Ark. Code Ann §5-14-125(a)(1) states that a person commits sexual assault in the second degree if the person "Engages in sexual contact with another person by forcible compulsion...." This is a class B felony punishable by imprisonment, 5 to 20 years. *See* Ark. Code Ann. §5-14-125(b)(1) and Ark. Code Ann. §5-4-401(a)(3). Forcible compulsion means physical force. *See* Ark. Code Ann §5-14-101(3). The Claimant testified that she was pushed onto a couch against her will. Sexual contact is defined by Ark. Code Ann. §5-14-101(12)(A) as an "act

of sexual gratification involving the touching, directly or through clothing, of the sex organs, buttocks, or anus of a person or the breast of a female....” The Claimant testified that Mr. Anderson was humping her around the left hip area which would include her buttocks. TR 18-21.

Moreover, this incident could be looked at as attempted rape. Rape occurs when an individual engages in sexual intercourse or deviate sexual activity with another person by forcible compulsion. *See* Ark. Code Ann §5-14-103(a)(1). Attempted rape occurs when a person purposely engages in conduct that constitutes a “substantial step in a course of conduct intended to culminate in the commission of an offense whether or not the attendant circumstances are as the person believes them to be.” Ark. Code Ann §5-3-201(a)(1). I find by the preponderance of the evidence that Mr. Anderson took a substantial step in trying to have sexual intercourse with the Claimant by forcible compulsion. I further find both offenses, second degree sexual assault and attempted rape, were consummated by Mr. Anderson against the Claimant. I also find they are both violent offenses, especially the attempted rape. *See* Ark. Code Ann §5-73-202(1)(D). Thus, I find by the preponderance of the evidence that Claimant’s work-related incident meets the definition of a crime of violence. Therefore, no physical injury is required to be proven for Claimant’s alleged mental injury.

Next, according to A.C.A. §11-9-113(a)(2) (Repl. 2012), Claimant’s diagnosis of PTSD must be diagnosed by a licensed psychiatrist or licensed psychologist. Here is where Claimant’s claim fails. Claimant’s diagnosis was done by Sabrina Lewis, a mental health counselor, and her ongoing treatment was done by Joseph Labonte, a nurse practitioner. The Claimant has not produced one report demonstrating that her PTSD diagnosis, for her work-related incident, was ever made by a licensed psychiatrist or psychologist. Thus, her claim must fail. Therefore, I find

that the Claimant has failed to prove by the preponderance of the evidence that she suffered a compensable injury in the form of PTSD by specific incident.

MISCELLANEOUS ISSUES

Based on my previous findings that Claimant has failed to prove that she sustained a work-related injury by specific incident, the remaining issues regarding reasonable and necessary medical treatment, and temporary total disability benefits, are moot and will not be addressed in this opinion.

CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, the parties shall act consistent with this opinion.

IT IS SO ORDERED.

Hon. Steven Porch
Administrative Law Judge