

COURT OF APPEALS OF VIRGINIA

Present: Judges Humphreys, McCullough and Senior Judge Bumgardner

SYLVESTER LEE

v. Record No. 0080-14-3

DYNAX AMERICA CORPORATION AND
TRAVELERS INDEMNITY COMPANY
OF AMERICA

MEMORANDUM OPINION*
PER CURIAM
JUNE 3, 2014

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Sylvester Lee, *pro se*, on briefs).

(Roberta A. Paluck; Christopher M. Kite; Lucas & Kite, PLC, on
brief), for appellees.

Sylvester Lee (hereinafter “claimant”) appeals a decision of the Workers’ Compensation Commission (hereinafter “commission”) denying his claim for benefits. The commission found that he did not suffer a compensable injury by accident because his testimony was not credible. On appeal, claimant contends his testimony was credible, the evidence proved he suffered a compensable injury by accident, and the evidence proved his alleged accident caused his injury and disability.¹

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

¹ In a fourth assignment of error, claimant frames the issue on appeal as “[w]hether credible evidence exist[s] to support the Commission[’]s finding that the claimant’s ‘conditions of the workplace’ in combination with significant work related exertion caused the injury.” Upon review of the commission’s opinion, we are unable to locate such a ruling, and claimant refers us only to “Tabs 13-18” without explanation. As the commission did not make such a finding, this issue is not properly before us on appeal. “‘We cannot consider alleged error on a ruling the commission never made.’” Hodnett v. Stanco Masonry, Inc., 58 Va. App. 244, 254, 708 S.E.2d 429, 435 (2011) (quoting Montalbano v. Richmond Ford, LLC, 57 Va. App. 235, 249 n.7, 701 S.E.2d 72, 79 n.7 (2010)).

We have reviewed the record and the commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Lee v. Dynax America Corp., JCN VA 00000664674 (Dec. 2, 2013). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.

Affirmed.