

COURT OF APPEALS OF VIRGINIA

Present: Judges Humphreys, Beales and Powell

TIMOTHY WAYNE BRADLEY

v. Record No. 2623-08-3

SOUTHERN AIR, INC. AND  
LIBERTY MUTUAL INSURANCE COMPANY

MEMORANDUM OPINION\*  
PER CURIAM  
MARCH 10, 2009

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Gregory P. Cochran; Caskie & Frost, on brief), for appellant.

(John T. Cornett, Jr.; Daniel E. Lynch; Daniel E. Lynch &  
Associates, on brief), for appellees.

Timothy Wayne Bradley (claimant) appeals a decision of the Workers' Compensation Commission denying his claim seeking to hold Southern Air, Inc. and its insurer responsible for the cost of medical treatment of his low back and left hip.

On appeal, claimant contends the commission erred in dismissing his claim because the medical evidence proved his low back and left hip injuries constituted compensable consequences of his original October 30, 1999 right knee injury. However, our review of the commission's opinion shows that it did not render any decision on the questions raised by claimant in this appeal. Rather, the commission based its denial of claimant's May 2, 2007 claim for benefits for medical treatment of his low back and left hip solely upon its findings that the claim was barred by the statute of limitations contained in Code § 65.2-601, as it was not filed within two years from the date of claimant's compensable accident and that his May 2007 claim did not constitute an amendment to the initial April 26, 2000 claim for benefits. The commission

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

did not address the compensable consequences issues now raised by claimant on appeal, and claimant failed to file a motion for reconsideration or rehearing in order to request that it do so. Accordingly, we will not address whether the low back and left hip injuries constituted compensable consequences of claimant's original injury for the first time on appeal. See Rule 5A:18. "Although Rule 5A:18 allows exceptions for good cause or to meet the ends of justice, appellant does not argue that we should invoke these exceptions [and] [w]e will not consider, *sua sponte*, a 'miscarriage of justice' argument under Rule 5A:18." Edwards v. Commonwealth, 41 Va. App. 752, 761, 589 S.E.2d 444, 448 (2003) (*en banc*) (citation omitted).

Because claimant does not challenge the commission's specific findings that his May 2007 claim for medical treatment of his low back and left hip was barred by the statute of limitations contained in Code § 65.2-601, as it was not filed within two years from the date of his compensable accident, and that his May 2007 claim was not an amendment to the initial April 26, 2000 claim for benefits, those findings are binding and conclusive upon us. Accordingly, we affirm the commission's decision without addressing the merits of the questions raised by claimant. 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.