

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE  
MIDDLE DIVISION

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TN CLAIMS COMMISSION  
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KAREN REED, )  
 ) Claim No. 30130214426  
 Claimant, )  
v. )  
 )  
STATE OF TENNESSEE ) Workers' Compensation  
 ) Regular Docket  
 Defendant. )

**JUDGMENT FOR THE DEFENDANT AND DISMISSAL OF CLAIM**

This Workers Compensation claim was tried on May 27, 2014 before Robert N. Hibbett, Commissioner and Trial Judge of the facts and law, in the Rachel Jackson Building in Nashville, Tennessee. Julie A. Reasonover, Esq., appeared for the Claimant. Assistant Attorney General Lee Pope represented the State of Tennessee. The Trial Transcript was filed on June 25, 2014.

The Claims Commission has jurisdiction of this matter under Tenn. Code Ann. § 9-8-307(a)(1)(K), relative to workers' compensation claims by state employees. The Tribunal has decided to hear proof on the issue of whether the Claimant was injured in the course and scope of her employment only. It seemed prudent to adjudicate this issue first. Pursuant to Tenn. Code Ann. § 9-8-

403(i), the Commission makes the following findings of fact and conclusions of law.

### **CLAIMANT'S ALLEGATIONS**

Claimant, Karen Reed, seeks workers' compensation benefits for an alleged injury to her left hand and wrist. On January 18, 2013, the Plaintiff was employed as a correctional officer where she took care of inmates at the State of Tennessee Department of Corrections. On said date, Plaintiff had ordered a second tray of food for inmate Niya Logan who was complaining she was still hungry. According to the Claimant, when she tried to give it to the inmate, the inmate had changed her mind and as Ms. Reed was closing the pie flap, the inmate pushed it open against her left hand causing injury. Claimant reported her alleged accident to her supervisor Dennis Henry at the Tennessee Prison for Women ("TPW"). One of the Accident Reports was signed and filled out by Mr. Henry. Mr. Henry authorized Ms. Reed to leave work and seek medical care in accordance with TDOC Policy. Claimant began treatment at U.S. Healthworks under the care of Dr. Jayaraman, an approved treating physician, on January 18, 2013.

Again, the only issue in controversy at this particular hearing is whether the Claimant's injury occurred in the course and scope of her employment.

### FINDINGS OF FACT

#### TESTIMONY OF KAREN REED

Ms. Reed testified that she started work as a correctional officer with the State in 2006, took family medical leave and has continued to work since 2008. At the time of her alleged injury, she was working maximum security at the women's prison. Her duties included security checks, cell searches, strip searches, feeding inmates and the monitoring of inmate movement. On January 18, 2013, she was monitoring the showers and collecting laundry bags from the inmates. There were laundry bags everywhere. She was passing food trays to each of the inmates. She went to the upper level and opened the pie flap to each cell, placed the food trays inside and then secured each pie flap.

When she arrived at inmate Logan's cell, she opened the pie flap and gave her the food tray. She started back to her desk when inmate Logan began to yell about being dissatisfied with the food. She called Corporal Walker on the intercom and told him what inmate Logan was saying. After Corporal Walker

talked to the inmate, he called her back and said that he was ordering another food tray to calm the inmate.

After the new food tray came, Ms. Reed took the food tray to inmate Logan's cell. She placed the new tray on the food cart nearby the cell and opened the pie flap. Inmate Logan told Ms. Reed that she was keeping the old tray and pushed the pie flap against Ms. Reed's left hand, injuring it. She testified that this occurred between 4:00 p.m. and 5:00 p.m. She immediately notified Corporal Walker of the incident and injury. Corporal Walker notified Lieutenant Henry, the shift commander. Shortly thereafter, Bridgette Vaughn, Lieutenant Henry and a nurse arrived at her station. After the nurse observed her hand, Ms. Reed was authorized by Lieutenant Henry and Renee Caldwell of Human Resources to seek medical attention at U.S. Healthworks, an authorized provider. However, the State has not paid her medical bills or provided a panel of physicians. The Claimant was terminated from her position in March 2013.

Although Tennessee law presumes that all witnesses are telling the truth, the Tribunal cannot accredit the Claimant's testimony concerning her injury based on the subsequent testimony and video exhibit. (Exhibit A)

### TESTIMONY OF NIYA LOGAN

Niya Logan is an inmate in the Tennessee Prison for Women. She was the inmate that Ms. Reed was attempting to serve on the day of the alleged injury. Ms. Logan had previously refused to testify at a deposition scheduled by the parties. The Tribunal ordered her to testify at trial and she complied.

Ms. Logan immediately accused Ms. Reed of lying about the incident. She testified that they did argue about the food but Ms. Reed's hand did not get hurt in the pie flap. She stated that Ms. Reed took the tray back, put it on the cart, came back, shoved the pie flap and then locked the pie flap.

The Tribunal does not accredit the testimony of inmate Logan. She previously had refused to testify and she has many convictions for felonies and crimes of dishonesty. It was also clear that Ms. Logan had a personal bias against Ms. Reed.

### TESTIMONY OF BRIDGETTE VAUGHN

Bridgette Vaughn has worked for the State of Tennessee since 1989. She originally was a correctional officer but is now the inmate relations coordinator. Ms. Vaughn is a coworker and friend of the Claimant.

About 6:00 to 6:30 p.m. on January 18, 2013, Ms. Vaughn received a call for Corporal Walker stating that an inmate had hurt Ms. Reed's hand with a pie flap. When she saw Ms. Reed, she had ice on her hand. She told Lieutenant Henry that she would take Ms. Reed to Urgent Care and he approved. She testified that Ms. Vaughn was in severe pain. She was holding it stiff and rubbing it.

The Tribunal finds that Ms. Vaughn testimony is believable and creditable concerning what she observed about Ms. Reed.

#### TESTIMONY OF DENNIS HENRY

Dennis Henry was Lieutenant and shift commander at the time of this alleged incident. He has since been promoted to Captain. On the day in question, he was informed of Ms. Reed's injury and he filled out the workers compensation paperwork. He sent her to Urgent Care (now U.S. Healthworks). When she got back from Urgent Care, he wrote an incident report charging the inmate with assault after she verbally told him about the incident. As Ms. Reed was filling out her portion of the paperwork, he observed that her hand was stiff but did not see any swelling, redness or injury to her hand.

The Tribunal believes and accredits the testimony of Captain Henry.

### TESTIMONY OF SONNY MORRIS

Sonny Morris is an institutional investigator for the Tennessee Prison for Women. Lieutenant Henry contacted investigator Morris as soon as the incident occurred and she retrieved and reviewed the video of Ms. Reed at the reported date and time. She testified that she made a copy of the video recording the incident. Investigator Morris properly authenticated the video and the original CD was entered into evidence. It was time stamped January 18, 2013 16:55.22 (4:55 and 22 seconds p.m.). There was an extensive direct and cross-examination to determine the creditability of this video. The Tribunal finds that Exhibit A is a true, accurate and creditable recording of the alleged incident on January 18, 2013.

### TESTIMONY OF D-ANDRE WALKER

D-Andre Walker is presently a sergeant at the Tennessee Prison for Women. At the time of the alleged incident, he was a corporal located in Unit 3 so he could observe the pods including B pod, the location of the incident. At the time in question, he saw Claimant take a tray or item to inmate Logan's cell. She opened the pie flap with her key, inserted the tray or item, and then closed and locked the pie flap. He made a point to watch what occurred because Ms. Reed

and the inmate had words earlier. He did not observe inmate Logan slam Ms. Reed's hand in the pie flap. Sergeant Walker was shown Exhibit A. He recognized it as a fair and accurate portrayal of what he personally observed on January 18, 2013. The only observation that seemed different is that she appeared to stay at the cell door longer than he remembered.

Previously, he recalled the inmate screaming at Ms. Reed. He did not recall ordering a new tray for inmate Logan but he was sure he did. He observed, as he testified before, Ms. Reed taking the new tray or item to the inmate's cell. He recalled that Ms. Reed called him and stated that she needed a nurse because the inmate had slammed her hand in the pie flap.

The Tribunal finds that Sergeant Walker's testimony was creditable and believable.

#### ANALYSIS OF EXHIBIT A

The Tribunal has viewed Exhibit A multiple times, both at trial and during the deliberative process in writing this judgment. The Tribunal cannot see any sign of an incident, injury, or any abnormal activity. In her rebuttal testimony, Claimant made it very clear the video does not show the first time she took the food tray to the inmate.

## CONCLUSIONS OF LAW

It is settled law that for an injury to be compensable under Workers' Compensation it must arise "primarily out of and in the course and scope of employment." Tenn. Code Ann. § 50-6-102. The State contends Claimant was not injured out of this alleged incident.

The most probative evidence comes from Exhibit A. In viewing the video, it is obvious that after leaving inmate Logan's cell door, Ms. Reed is carrying something, possibly a tray, in her *left* hand that had allegedly been injured. Why would she carry the item in her injured hand? This simply is not logical and persuades the Tribunal that she was not injured at the cell door, even if the pie flap had struck her. This finding is corroborated by the testimony of Sergeant D-Andre Walker. The records and testimony appear to indicate that she suffered some kind of minor injury that was treated by Dr. Jayaraman. However, if there was an injury, Claimant has not proved that it occurred at the time and in the way she has alleged.

The standard regarding proof of causation is very clear:

Although absolute certainty is not required for proof of causation, *see Martin Bros. Container and Timber Corp. v. Lynch*, 551 S.W.2d 687, 689 (Tenn.1977), medical proof that the injury was caused in the course of the employee's work must not be speculative or so

uncertain regarding the cause of the injury that attributing it to the plaintiff's employment would be an arbitrary determination or a mere possibility. *See, e.g., Patterson v. Tucker Steel Co.*, 584 S.W.2d 792, 794 (Tenn.1979); *Owens Illinois, Inc. v. Lane, supra*, at 349; *Cas Walker's Cash Stores, Inc. v. Livesay, supra*, 215 Tenn. at 310–311, 385 S.W.2d at 747; *Lynch v. J.C. LaRue, supra*, 198 Tenn. at 104–105, 278 S.W.2d at 86. “If, upon undisputed proof, it is conjectural whether disability resulted from a cause operating within petitioner's employment, or a cause operating without employment, there can be no award.” *Tibbals Flooring Co. v. Stanfill*, 219 Tenn. 498, 508, 410 S.W.2d 892, 897 (1967). If, however, equivocal medical evidence combined with other evidence supports a finding of causation, such an inference may nevertheless be drawn by the trial court under the case law. *See, e.g., Seay v. Town of Greeneville, supra*, at 383; *Patterson v. Tucker Steel Co., supra*, at 794; *Owens Illinois, Inc. v. Lane, supra*, at 349; *P & L Construction Co., Inc. v. Lankford*, 559 S.W.2d 793, 794 (Tenn.1978); *Travelers Insurance Co. v. Flatford*, 551 S.W.2d 695, 696–697 (Tenn.1977); *Travelers Insurance Co. v. Googe, supra*, 217 Tenn. at 278, 397 S.W.2d at 370; *Cas Walker's Cash Stores, \*938 Inc. v. Livesay, supra*, 215 Tenn. at 311, 385 S.W.2d at 747.

*Tindall v. Waring Park Ass'n*, 725 S.W.2d 935, 937-38 (Tenn. 1987)

Although an inference may be drawn that there was an injury in this case, the testimony and the video negate any inference that the injury occurred at the time, place and in the way described by the Claimant. Therefore, the Claimant has failed to prove, by preponderance of the evidence, her injury arose primarily out of and in the scope of her employment.

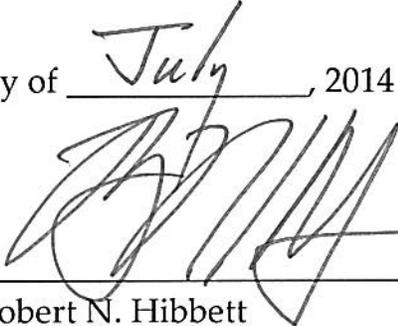
**IT IS, THEREFORE, ORDERED, DECREED AND ADJUDGED:**

1. That this claim is not eligible for benefits under the Workers'

Compensation Act and Tenn. Code Ann. § 9-8-307(a)(1)(K) and is respectfully dismissed.

2. The court costs are taxed to the Claimant, Karen Reed.
3. Each party is responsible for their own discretionary costs
4. This is a final judgment.

ENTERED this 16 day of July, 2014

  
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Robert N. Hibbett  
Claims Commissioner  
Sitting as the Trial Court of Record

**CERTIFICATE OF SERVICE**

This is to certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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This 18<sup>th</sup> of July, 2014.

*Paula Swanson*

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PAULA SWANSON  
Administrative Clerk  
Tennessee Claims Commission