

**IN THE COURT OF APPEALS  
OF THE  
STATE OF MISSISSIPPI  
NO. 96-CC-01093 COA**

**GERALDINE BROWN**

**APPELLANT**

**v.**

**FRITO-LAY**

**APPELLEE**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND MAY NOT BE CITED,  
PURSUANT TO M.R.A.P. 35-B

DATE OF JUDGMENT:	09/04/96
TRIAL JUDGE:	HON. JAMES E. GRAVES JR.
COURT FROM WHICH APPEALED:	HINDS COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	AL CHADICK
ATTORNEY FOR APPELLEE:	LELAND S. SMITH, III
NATURE OF THE CASE:	CIVIL - WORKERS' COMPENSATION
TRIAL COURT DISPOSITION:	AFFIRMED FULL COMMISSION'S ORDER
DISPOSITION:	AFFIRMED - 11/4/97
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	11/25/97

BEFORE THOMAS, P.J., DIAZ, AND KING, JJ.

THOMAS, P.J., FOR THE COURT:

The Full Commission of the Mississippi Workers' Compensation Commission denied Geraldine Brown disability and from that order she appealed to the circuit court which affirmed. Aggrieved, Brown appeals to this Court raising the following issues as error:

I. WHETHER THE ORDER OF THE MISSISSIPPI WORKERS' COMPENSATION COMMISSION REVERSING THE ORDER OF THE MISSISSIPPI WORKERS' COMPENSATION ADMINISTRATIVE JUDGE WAS REASONABLE AND PROPER GIVEN THE FACTS AND LAW PRESENT IN THIS CASE.

II. WHETHER THE CLAIMANT'S MENTAL CONDITION IS JOB-RELATED AND WHETHER MEDICAL AND INDEMNITY BENEFITS SHOULD HAVE BEEN PAID TO THE CLAIMANT ON ACCOUNT OF SAID INJURY.

Brown presents two interrelated issues in her submitted brief. As the decision in the first issue is dispositive of the second, we need not address the second issue. Finding no error, we affirm.

## FACTS

At the time of the hearing, Geraldine Brown was a 47-year-old female. She had been working at Frito-Lay since December 1978. Her first job at Frito-Lay was display box maker. In this position, Brown received her first injury, an injury to the hand, in 1985. She had surgery on her left hand and returned to work in the position of a packer. While working as a packer in 1986, Brown injured her shoulder, which required several surgeries. She returned to work as a floor manager because her doctor had restricted her from performing her job as packer. Brown was next assigned to a position called pick-out trim where she worked for about a year. From there she went to a position in quality control. Brown testified that she wanted the position at quality control because she was having problems with the physical tasks required by the pick-out trim position, and this new job would not require heavy lifting.

Brown testified that in December of 1993 she began to experience psychological problems brought on by working extensive overtime since August of 1993. During the hearing, Frito-Lay human resource manager, Ms. Jacquie Munson-Gaines, testified that they filled overtime hours based first on volunteers and then on seniority. When volunteers were not found, they gave Brown, being the least senior person on her shift, overtime. The procedure by which Frito-Lay distributed the overtime hours was established by the collective bargaining contract submitted by the union of which Brown was a member. Munson-Gaines testified that the most Brown worked in one week was 65.2 hours and that there were several weeks between August and January in which Brown worked forty hours or less. From October 30, 1993 through January 22, 1994, Brown worked an average of 48.62 hours per week, excluding a week's vacation between the period of December 19, 1993 and December 26, 1993.

Brown stated that in December of 1993 she began to hallucinate and have thoughts of injuring or killing co-workers. Brown testified that on January 23, 1994 she snapped and confronted a co-worker. She told this co-worker that she was going to kill him; however, Brown was able to finish her work day. The next day, Brown sought medical attention. She went to see Dr. Michael Reddix who put her in the Methodist Hospital where she was treated by a Dr. Holloman. Brown was transferred to Charter Hospital, where she was seen by Dr. William Welch.

Dr. Welch, by deposition, testified that when he first saw Brown, on December 1, 1994, she was very depressed, angry, and explosive. He diagnosed her with a dysthymic disorder, which he called a long standing, low grade depression. He testified that the main stressor of this diagnostic impression was chronic fatigue and sleep deprivation. Welch testified that Brown was hospitalized from February 1, 1994 until February 21, 1994. Welch saw Brown a few more times, and on May 31, 1994, let her return to work with the restriction of no overtime. After returning to work at Frito-Lay, Welch still had appointments with Brown and changed her medication several times to deal with her panic attacks and paranoia about returning to work. Welch testified that the stress at work, resulting in sleep deprivation, and the injuries added to produce Brown's major depression.

Brown was also seen on April 4, 1995, by Dr. Robert Ritter, a neuropsychiatrist. He testified that he

diagnosed Brown as representative of a delusional disorder of the persecutory type. Dr. Ritter testified that there was no way of knowing what caused Brown's problems, but that he did not think that Brown's job caused or contributed to her condition.

Brown was able to work from June until October 18, 1994. At that time, Brown was laid off, due to Frito-Lay's reduction in the work force.

Brown filed a Petition to Controvert on November 14, 1994, alleging whole body impairment. A hearing was held on September 14, 1995, and the administrative judge filed his order on October 13, 1995. The administrative judge found that, at a minimum, Brown's employment was a contributing cause of Brown's mental breakdown and because of this injury Brown was temporarily and totally occupationally disabled from January 22, 1994 through May 24, 1994 and suffered a 25% permanent industrial disability. From that ruling, both parties submitted a petition for review to the Full Commission. The Full Commission reversed the findings of the administrative judge. The Full Commission found the events that formed the basis for Brown's claims were nothing more than ordinary incidents of her employment. From that order, Brown appealed to the Circuit Court of Hinds County, Mississippi. The circuit court found that substantial evidence supported the Full Commission's order and affirmed.

I. WHETHER THE ORDER OF THE MISSISSIPPI WORKERS' COMPENSATION COMMISSION REVERSING THE ORDER OF THE MISSISSIPPI WORKERS' COMPENSATION ADMINISTRATIVE JUDGE WAS REASONABLE AND PROPER GIVEN THE FACTS AND LAW PRESENT IN THIS CASE.

We will apply a deferential standard of review to the Commission's findings and decisions. *Lanterman v. Roadway Express*, 608 So. 2d 1340, 1345 (Miss. 1992). If substantial evidence supports the Commission's findings of fact and order, all appellate courts are bound thereby. *Champion Cable Const. Co. v. Monts*, 511 So. 2d 924, 927 (Miss. 1987). When conflicting evidence has been presented, we will not decide the preponderance of the evidence, "the assumption being that the Commission, as the trier of fact, has previously determined which evidence is credible, has weight, and which is not." *McGowan v. Orleans Furniture*, 586 So. 2d 163, 165 (Miss. 1991) (quoting *Metal Trims Indus., Inc. v. Stovall*, 562 So. 2d 1293, 1297 (Miss. 1990)). We will reverse the Workers' Compensation Commission only if we find that its order was clearly erroneous or contrary to the overwhelming weight of the evidence. *Myles v. Rockwell Int'l*, 445 So. 2d 528, 536 (Miss. 1983).

Beyond this standard, the burden of proof is heightened in cases concerning mental or psychological injury. *Fought v. Stuart C. Irby, Co.*, 523 So. 2d 314, 317 (Miss. 1988). "[W]hen a claimant seeks compensation benefits for disability resulting from a mental or psychological injury, the claimant has the burden of proving by clear and convincing evidence the connection between the employment and the injury." *Id.* To be compensable, a mental or psychological injury, unaccompanied by physical trauma, must have been caused by something more than the ordinary incidents of employment. *Id.*; *Brown & Root Const. Co. v. Duckworth*, 475 So. 2d 813, 815 (Miss. 1985).

In *Fought v. Stuart C. Irby, Co.*, 523 So. 2d 314, 315 (Miss. 1988), Fought petitioned for benefits for disability resulting from mental or psychological injury when she was reprimanded at work after being called into the supervisor's office and told that the supervisor was not satisfied with her work

initiative. She was told that her absences were a problem. Fought claimed that she suffered a severe psychological reaction to this criticism. Our Supreme Court held that when a claimant seeks compensation benefits for disability resulting from a mental or psychological injury, the claimant has the burden of proving by clear and convincing evidence the connection between the employment and the injury and that the mental injury must have been caused by something more than the ordinary incidents of employment. *Id.* at 317. The Court stated that the Commission may reasonably have regarded harassments or stresses to which the claimant was subjected as nothing more than the ordinary incidents of employment, and not untoward events or unusual occurrences. *Id.* at 318.

In Brown's case, the Commission, in reversing the administrative judge, found that the precipitating events that formed the basis of Brown's claim to be nothing more than ordinary incidents of her employment. It stated that Brown's case fell far short of the kind of prolonged and excessive working hours that it would entertain before seriously considering a claim of her type. The Commission held that Brown's incidents of employment were neither unreasonable nor extraordinary.

Substantial evidence supports the decision of the Commission, affirmed by the circuit court below, that Brown is not disabled due to work-related mental injury. Keeping in mind our limited scope of review and the evidence presented, we cannot say the Commission's fact supported decision, reversing the administrative judge's initial finding, was clearly erroneous or against the overwhelming weight of the evidence. We affirm.

**THE JUDGMENT OF THE HINDS COUNTY CIRCUIT COURT IS AFFIRMED. COSTS ARE ASSESSED TO APPELLANT.**

**BRIDGES, C.J., McMILLIN, P.J., COLEMAN, DIAZ, HERRING, HINKEBEIN, KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.**