STATE OF RHODE ISLAND

PROVIDENCE, SC. WORKERS' COMPENSATION COURT
APPELLATE DIVISION

EDWARD ST. ONGE CABA)
)
VS.) W.C.C. 2022-00736
)
NORTH ATLANTIC DISTRIBUTION, INC.)

DECISION OF THE APPELLATE DIVISION

OLSSON, J. This matter is before the Appellate Division on the employee's appeal from the trial judge's decision and decree denying the employee's original petition for workers' compensation benefits. The employee alleged that on December 4, 2021, he sustained a left thumb laceration during the course of his employment, resulting in total and/or partial incapacity from December 5, 2021 and continuing. After a thorough review of the record, and following consideration of the parties' respective arguments, we deny and dismiss the employee's appeal and affirm the trial judge's decision and decree.

Edward St. Onge Caba (hereinafter the "employee") began working at North Atlantic Distribution, Inc. (hereinafter "NORAD" or "employer"), a vehicle distributor, on February 7, 2017, as a vehicle maintenance worker. In 2021, the employee began working as an accessory installer which involved finishing the prepping of the cars, such as installing remote starters, mud flaps, and side molding. The job as an accessory installer required the use of power tools, ratchets, screwdrivers, and other small tools.

The employee testified that the employer supplied all installers with a wheeled pushcart

for tools, which could be pushed to each workstation. The employee stated that although he was provided a pushcart, he would also make a cardboard box, about twelve (12) by ten (10) inches, to put small tools in. The employee admitted that the use of the cardboard box was not required, but that no one told him he was not allowed to use the cardboard box. The employee would carry the cardboard box around the car he was working on or push the box under the car for convenience, instead of moving the large pushcart around the car as he worked. He explained that because he would place the box on the ground, it would get wet due to water on the floor and begin to deteriorate after a few months. He would then get cardboard from the garbage and make a new one. The employee explained that "[he] wanted to make a wooden box so it wouldn't break all the time, so [he] wouldn't have to be building more." Trial Tr. 12:19-21.

On December 4, 2021, the employee decided to make a wooden box using some discarded wooden pallets he found outside the back of the building and cutting the wood by using a table saw located on the employer's premises. The table saw was in a hallway near the women's bathroom. The employee admitted that he had never used the employer's table saw before December 4, 2021; however, he had previously used other table saws. He acknowledged that his job as an accessory installer did not require him to use the table saw. He asserted that he was never told he could not use the table saw, but he admitted that he also never asked for permission to use the table saw. The employee explained that, as he was using the table saw, "I don't know how I got distracted, and I grabbed the wood from the opposite side, and I was pulling it instead of pushing it, and that's when I put this finger in there," referring to his left thumb. Trial Tr. 17:7-10. According to the employee, the incident occurred right after his lunch break.

After injuring himself, the employee went into the bathroom and wrapped his thumb as

best he could to stop the bleeding. He then went to the office of his supervisor, Oscar Rico, and filled out his daily work log before driving himself to Kent Hospital emergency room. The employee stated that while he was in the office, he reported the incident to Mr. Rico, but no formal incident report was completed. The employee testified that he did not recall telling Mr. Rico that the injury had nothing to do with his job and that he had used the table saw for personal reasons.

Oscar Rico was employed by NORAD as a supervisor manager on December 4, 2021 and knew the employee who worked as an installer under his supervision. Mr. Rico was working on his computer in the office when the employee came into the office and started to fill out his daily work log. He asked the employee if he was leaving early, and the employee responded "[Y]eah, yeah, yeah, I cut my finger on my own time." Trial Tr. 55:3-4. Mr. Rico testified that while he was in the office, the employee did not say anything to indicate the injury occurred in the vicinity or while doing anything related to work. After the employee left, Mr. Rico left the office and was on the floor where the installers worked when the cleaning lady inquired about the health of the employee. The cleaning lady then described to Mr. Rico the table saw incident, in which the employee cut his finger. She told Mr. Rico she had cleaned up the blood that was on the floor.

Immediately after speaking with the cleaning lady, Mr. Rico went to review the video footage from the area around the table saw. Mr. Rico testified that the video showed the employee, during work hours, go to the table saw and begin cutting some wood. He noticed the employee "look around, just looking, like diagonally looking back" and then the employee sliced his thumb and ran into the bathroom. Trial Tr. 57:24-25. When the employee emerged from the bathroom, he briefly spoke with the cleaning lady.

After reviewing the footage, Mr. Rico promptly called the employee. Mr. Rico stated that

when he asked the employee what happened, the employee responded by saying "oh, I was stupid. I was cutting a piece of wood, and I cut my finger." Trial Tr. 59:4-5. Mr. Rico then testified that he responded to the employee "you know you're not supposed to be using that table saw," and the employee agreed by saying "I know, I know." Trial Tr. 59:6-7.

Mr. Rico acknowledged that he never personally told the employee he could not use the table saw; however, he asserted that only certain personnel were permitted to use the table saw. He further stated that installers, such as the employee, had no need to use the saw or even go to the area where the saw was located.

The medical evidence consists of the affidavit and records of Kent Hospital and the deposition and records of Dr. Andrew Matson, an orthopedic surgeon specializing in hand and upper extremity surgery. Dr. Matson testified that he saw the employee on December 4, 2021, in the Kent Hospital emergency room, for a left thumb laceration. The employee reported that he was cutting wood with a table saw and cut his left thumb. Dr. Matson diagnosed the employee with "a laceration over the volar pulp of his thumb that was a complex stellate laceration, and it was approximately three centimeters." Ee's Ex. 2, Depo. of Dr. Andrew Matson, at 6:19-21. Dr. Matson irrigated and cleaned out the wound, removing any dead or contaminated tissues and repaired the lacerated fragment of skin. Dr. Matson testified that the injury that the employee presented with on December 4, 2021, was consistent with that of an injury from a table saw cut. Additionally, Dr. Matson testified to a reasonable degree of medical certainty that the employee was unable to work from December 4, 2021 to February 28, 2022.

After the initial treatment on December 4, 2021, Dr. Matson saw the employee periodically for follow-up visits through May 23, 2022, when he found the employee had a healed laceration with some persistent dysesthesias or partial numbness. Dr. Matson stated that

his understanding of the employee's job was that "he was a laborer who worked with his hands," but he did not know the specific duties of the employee's job. Ee's Ex. 2 at 17:23-24. He also admitted that he did not know if the job of an installer would require him to use a table saw. Dr. Matson explained that his opinion that the injury was work-related was based upon the fact that the employee told him the injury occurred at work.

In his written decision, the trial judge reviewed in detail the testimony of the employee and Oscar Rico, as well as the medical reports from Kent Hospital and the records and deposition testimony of Dr. Matson. After observing the employee's demeanor while testifying and the manner in which he responded to questions, as well as the testimony of Mr. Rico, the trial judge found that the employee was not a credible witness. He concluded that the employee did not initially inform Oscar Rico about the table saw incident or fill out an incident report, which created an inference the employee was engaged in an act that was not part of his duties as an installer.

Additionally, the trial judge found that based upon the testimony of the employee and Mr. Rico, the operation of the table saw was not a risk or condition of the employee's employment as an installer and that the use of the table saw was outside the scope of his employment and solely for his own personal purpose. The trial judge also held that the building of a wooden box was unrelated to what the employee had been hired to do as an installer and the employee used the table saw without the knowledge or permission of the employer. For these reasons, the trial judge did not find the employee's testimony that his injury was work-related to be credible and therefore rejected the opinion of Dr. Matson that it was a work-related injury. Consequently, the trial judge denied the employee's petition. The employee filed a timely claim of appeal.

The Appellate Division's standard of review is highly deferential to the determinations

made by the trial judge. When reviewing the decision of a trial judge, we are guided by the standard set forth in Rhode Island General Laws § 28-35-28(b), which states "[t]he findings of the trial judge on factual matters shall be final unless an appellate panel finds them to be clearly erroneous." Accordingly, our panel is prohibited from engaging in a *de novo* review of the record without first determining that the trial judge was clearly wrong or overlooked or misconceived material evidence. *Diocese of Providence v. Vaz*, 679 A.2d 879, 881 (R.I. 1996); *see also Mulcahey v. New England Newspapers, Inc.*, 488 A.2d 681, 683 (R.I. 1985). Absent a clear error, the Appellate Division must review the trial judge's decision with the understanding that the findings of fact made at the trial level are deemed final. R.I. Gen. Laws § 28-35-28(b).

The employee has presented four (4) reasons of appeal. In the first reason of appeal, he contends that the trial judge erred in finding that his injury was not compensable because his use of the table saw was prohibited. The employee focuses on Mr. Rico's statement that he personally never told the employee that he was not permitted to use the table saw. However, the employee glosses over the remainder of Mr. Rico's testimony, which the trial judge found to be credible.

In a phone conversation shortly after the employee left to go to the hospital, the employee acknowledged to Mr. Rico that he knew he was not supposed to use the table saw. Mr. Rico further testified that only certain personnel were to use the table saw and accessory installers, such as the employee, had no need to use the table saw or even go into the area where the saw was located. The employee testified that the table saw was in a hallway near the ladies' bathroom, not out in the area where the employee worked on vehicles. Furthermore, he attempts to argue that he could use any "tool" in the building, but clearly a table saw is nothing like the ratchets, screwdrivers, and drills he used to perform his regular job. A table saw is a much more

dangerous instrument that is not remotely connected to the performance of the duties of an accessory installer. The employee stated that he did not know why he got distracted and looked away while he was using the table saw, resulting in a significant laceration to his thumb. One can surmise that the employee was looking to see if someone was approaching, indicating that he knew he should not have been using the table saw. Therefore, we find no error on the part of the trial judge in concluding that the employee was prohibited from using the table saw.

"[C]ompensation benefits will not necessarily be denied because the injury for which they are sought was sustained while the employee was engaged in prohibited conduct." *D'Andrea v. Manpower, Inc. of Providence*, 105 R.I. 108, 112, 249 A.2d 896, 898 (1969). An injury sustained as a result of engaging in a prohibited activity may be compensable

> provided that the prohibition violated related to the method of the employee's accomplishment of his assigned duties; it is otherwise, however, if the order disobeyed involved a prohibited overstepping of the bounds of his employment or doing something he was not employed to do, as for example, if an employee were to have engaged in prohibited personal activities during working hours.

Id. at 112, 249 A.2d at 899.

In *D'Andrea*, the employee was hired to unload stock from trucks and store it in the warehouse. He was injured when the forklift he was driving toppled over and landed on top of him. The employee's operation of a forklift was explicitly prohibited under his employment contract. *Id.* at 111, 249 A.2d at 898. The Rhode Island Supreme Court found that this misconduct alone did not warrant a denial of benefits and remanded the matter for the parties to present evidence as to whether the employee was fulfilling the duties of his employment at the time of the injury, although in a prohibited manner. *Id.* at 114-115, 249 A.2d at 899-900. The key question is then whether the employee is injured "doing something unrelated to what he had been

hired to do, rather than while performing an assigned task in a prohibited manner." *Id.* at 113, 249 A.2d at 899.

In the present matter, the trial judge found that the testimony of the employee regarding use of the table saw was not credible and instead, accepted the testimony of Mr. Rico. The Rhode Island Supreme Court has long held that a trial judge

> is uniquely qualified to both assess the credibility of a witness and determine what evidence to accept and what evidence to reject because he is in the best position to observe the appearance of a witness, his or her demeanor, and the manner in which he or she answers questions.

Quintana v. Worcester Textile Co., 511 A.2d 294, 295 (R.I. 1986) (citing *Davol Inc. v. Aguiar*, 463 A.2d 170, 174 (R.I. 1983)). Such determinations will only be overturned if clearly wrong or if the judge overlooked material evidence in making such a determination.

In his decision, the trial judge emphasized the contradictions between the employee's testimony and Mr. Rico's statements regarding the incident and whether use of the saw was prohibited. Mr. Rico testified that when the employee came into the office before leaving to go to the emergency room, the employee stated that he cut his finger on his own time. The employee never mentioned that the incident had any relation to work. Mr. Rico also stated that during a phone call shortly thereafter, the employee admitted knowing that he was not supposed to use the saw. The fact that Mr. Rico never explicitly told the employee that use of the saw was prohibited does not diminish Mr. Rico's credibility nor transform the employee's use of the table saw into a permitted job duty.

Furthermore, the fact that the employer never prohibited the employee's use of a cardboard box to carry some of his tools does not equate to permission to use the table saw to fabricate a wooden box. The employee argues that because he was building a replacement for the cardboard boxes with the table saw it was not a prohibited act. However, the mere fact that using

a cardboard box may not have been prohibited does not make using a table saw to construct a wooden box an act that was permitted—they are too dissimilar. The trial judge had sufficient evidence to conclude that the employee's use of the table saw was a prohibited act—not merely a permitted task performed improperly.

In his second reason of appeal, the employee maintains that there was a nexus between his job duties and his use of the table saw because he was building a wooden box to "better fulfill his duties to the Employer." Ee's Reasons of Appeal at 7. He points out that he was never prohibited from making or using the cardboard box, which he used alongside a pushcart. Therefore, he contends that because the wooden box was intended to remedy problems with the cardboard box, constructing the wooden box likewise arose from his employment. The employee cites several cases in support of his position that building the wooden box should be considered an activity arising out of employment. We find that the trial judge was not clearly erroneous in concluding otherwise.

The employee attempts to distinguish his case from *Almeida v. United States Rubber Co.*, in which an employee was injured after hours while acting solely for his own purposes of advancing his career. 82 R.I. 264, 107 A.2d 330 (1954). The employee argues that, unlike in *Almeida*, his use of cardboard boxes was directly connected to his job duties, not for his personal benefit. He further cites case law stating that just because an act is considered personal, does not necessarily place it beyond the provisions of the Workers' Compensation Act. *Boullier v. Samson Co.*, 100 R.I. 676, 680-81, 218 A.2d 133, 136 (R.I. 1966).

In *Almeida*, the Rhode Island Supreme Court held that an injury did not arise out of or relate to the conditions of employment where the employee used a machine that was not one his position required use of nor was it connected to the conditions of his employment, despite

causing his injury. *Almeida*, 82 R.I. at 269, 107 A.2d at 333. The Court reasoned that the employee's injury was not compensable because he used the machine without being requested to do so, without the employer's knowledge, without supervision, and without training—and solely for his own convenience and purpose. *Id.*

The reasoning in *Almeida* applies here. Although the employee's injury did not occur after hours, he nonetheless used a machine—a table saw—that was not required in the performance of his accessory installer position. He used the saw without being asked, without the employer's knowledge or supervision, and without having received any training on the use of the saw. The employee's use of a box, made of cardboard or other material, was a matter of personal choice. The employer provided a wheeled pushcart which contained all the tools needed to perform the employee's job duties. Thus, the trial judge's determination that constructing the wooden box was not an activity arising from employment is well supported by the evidence and case law.

In the third reason of appeal, the employee argues that cutting his finger with the table saw was an actual risk of his employment and therefore compensable. We find that the evidence and case law do not support such a conclusion.

Rhode Island has not adopted the positional-risk theory but instead "probably should be placed in the actual-risk category." *Dawson v. A & H Mfg. Co.*, 463 A.2d 519, 521 (R.I. 1983). As the Rhode Island Supreme Court has stated, the "workmen's compensation act does not provide that every workman who is injured while in his place of employment shall be compensated for his injury." *Id.* at 520. To recover under this doctrine, "the employee [is] required to sustain the burden of showing that this risk, even though common to the public, was in fact a risk of his employment." *Id.* at 521; *see also* 1 Larson, *The Law of Workmen's*

Compensation § 6.40 at 3-4, 3-5. Moreover, there must be "some causal connection between the injury suffered by the employee and the employment or the conditions of employment." *Ellis v. Verizon New England, Inc.*, 63 A.3d 510, 513 (R.I. 2010); *see Maggiacomo v. RIPTA*, 508 A.2d 402, 404 (R.I. 1986) (holding that the Court cannot supply the nexus between the injury and the employment).

To establish the compensability of his injury, the employee must prove that use of the table saw was required by the employee's job or arose from conditions integral to his employment. The employee testified that he was not required to use the saw to perform any of his job duties and that all the tools necessary to perform his job were on a pushcart. He admitted never having used the saw before the incident. The table saw was not even located in the area where the employee performed his work on vehicles. The job of an accessory installer involved using small tools for automotive work, not operating a table saw. It is a significant stretch to claim that simply because injuries can occur from the use of tools while performing work on automobiles, any injury involving any tool on the premises should be deemed an actual employment risk.

Accordingly, the trial judge was not clearly erroneous in finding that the employee's injury from the table saw was not an actual risk of employment, regardless of whether a formal prohibition on its use existed.

In the employee's final reason of appeal, he argues that the trial judge erred in finding Dr. Matson's testimony was not credible. We must disagree with the employee's characterization of the trial judge's view of Dr. Matson's testimony. The trial judge did not categorically find that Dr. Matson's opinion regarding the etiology and condition of the thumb laceration was not credible. Rather, the trial judge stated that he was rejecting certain opinions of the doctor as

unreliable. Trial judges have discretion to reject a medical opinion when it relies on the accuracy and completeness of the history provided by the employee. *Mazzarella v. ITT Royal Electric Division*, 120 R.I. 333, 388 A.2d 4 (1978). Moreover, even in the absence of conflicting testimony on causation, a court is not required to accept medical opinions it finds unsupported or lacking credibility. *Id.* at 337, 388 A.2d at 7. The trial judge found the employee was not a credible witness, and Dr. Matson could only rely upon the history and description of events provided to him by the employee.

As noted by the employee, there is no issue that the laceration to his left thumb is consistent with the use of a table saw. Mr. Rico testified that he saw the incident occur on the video. The issue before the trial judge was whether that injury is compensable under the Workers' Compensation Act. *See* R.I. Gen. Laws § 28-33-1. In order to receive workers' compensation benefits, an employee must establish that the personal injury arose "out of and in the course of his or her employment, connected and referable to the employment. . . ." *Id.* Here, the trial judge found that Dr. Matson's opinion that the injury was work-related was based solely on the employee's account of events—a history the trial judge had already deemed not credible.

During his deposition, Dr. Matson admitted that he lacked the expertise to determine whether the injury arose from an actual risk of the employee's job. He acknowledged that he did not know whether a table saw was a required tool for an accessory installer and conceded that he had deemed the injury work-related solely because the employee told him it occurred at the workplace. The trial judge properly rejected any statements by Dr. Matson that the injury was work-related or compensable because such a conclusion involved a legal—not a medical—determination. There is no clear error on the part of the trial judge in doing so.

For the foregoing reasons, we deny and dismiss the employee's appeal and affirm the decision and decree of the trial judge denying the employee's petition for compensation benefits. Pursuant to Rule 2.20 of the Rules of Practice of the Workers' Compensation Court, a final decree, a proposed version of which is enclosed, shall be entered on **December 1, 2025.**

Feeney, J. and Reall, J., concur.

ENTER:

/s/ Olsson, J.

/s/ Reall, J.

/s/ Feeney, J.

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FINAL DECREE OF THE APPELLATE DIVISION

This matter came to be heard by the Appellate Division upon the claim of appeal of the petitioner/employee and upon consideration thereof, the employee's claim of appeal is denied and dismiss, and it is

ORDERED, ADJUDGED, AND DECREED:

That the findings of fact and orders contained in a decree of this Court entered on November __, 2025 be, and they hereby are, affirmed.

Entered as the final decree of this Court this **1st day of December, 2025.**

PER ORDER:

/s/ Nicholas DiFilippo
Administrator

ENTER:

/s/ *Olsson, J.*

/s/ *Reall, J.*

/s/ *Feeney, J.*