

Court of Appeals, State of Michigan

ORDER

Valerie Hammond v Department of Corrections

Docket No. 322889

LC No. 13-000060

Patrick M. Meter
Presiding Judge

Peter D. O'Connell

Amy Ronayne Krause
Judges

The Court orders that the application for leave to appeal is GRANTED, limited to the issues of whether the MCAC correctly determined whether the magistrate followed its directive to consider plaintiff a "very credible witness" and whether plaintiff failed to satisfy the necessary criteria from *Stokes v Chrysler LLC*, 481 Mich 266, 281-284; 750 NW2d 129 (2008), for obtaining benefits. The time for taking further steps in this appeal runs from the date of the Clerk's certification of this order. MCR 7.205(E)(3).

Ronayne Krause, J., concurs in granting the application for leave to appeal. I write separately to comment specifically on one of the Attorney Generals arguments.

On remand from the Michigan Compensation Appellate Commission (MCAC), the original magistrate was unavailable. The magistrate on remand was given an order from the MCAC on remand to give plaintiff the benefit of being a "very credible witness." The Attorney General states on pages 27 and 28 of their answer to the application the following:

For example within the context of the pending appeal Hammond repeatedly asserts she cannot be around men other than her husband. Hammond probably believes this assertion; however, it is contrary to the facts as demonstrated within the record and at trial. Specifically, throughout the trial of her claim, Hammond was in the presence of Magistrate Moher, her counsel Allweil and defense counsel Tomasi, who are all men, for extended periods of time. She also has treated with Ford and Field and was evaluated by Jackson and Greiffenstein. Therefore, the record establishes Hammond has been able to be in the extended presence of at least seven men other than her husband. While Hammond probably believes she can't be around men based upon information she received from Ford and Field, Hammond's belief is mistaken in light of Hammond's ability to receive years of psychiatric

treatment, undergo two independent medical evaluations, and participate in her trial.

These assertions are wholly insulting to the many victims of sexual assault in this country. Anyone who knows anything about sexual assault knows these statements are unfounded.

There is no dispute that plaintiff was a victim of a brutal attack by a prisoner while she was a nurse for the Michigan Department of Corrections, was threatened with being raped while the prisoner pulled her pants down and was told by the prisoner that he was going to kill her while holding a weapon towards her. Plaintiff suffered injuries and was taken to a hospital. There was testimony from plaintiff and experts that she was not able to work around men any longer. To liken what happened to plaintiff as the same type of event as appearing before a male magistrate or working with a male lawyer, or male psychologist is simply repulsive.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JAN 26 2015

Date


Chief Clerk