

COURT OF APPEALS OF VIRGINIA

Present: Judges Kelsey, Petty and Senior Judge Bumgardner

ALICE MARIE DEANE

v. Record No. 2144-08-2

MARSHALLS, INC./THE TJX COMPANIES, INC. AND
AMERICAN CASUALTY COMPANY OF
READING, PENNSYLVANIA

MEMORANDUM OPINION*
PER CURIAM
NOVEMBER 25, 2008

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Alice Marie Deane, *pro se*, on briefs).

(C. Ervin Reid; Goodman, Allen & Filetti, LLC, on brief), for
appellees.

Alice Marie Deane (claimant) appeals a decision of the Workers' Compensation Commission affirming the deputy commissioner's dismissal of claimant's claim for "temporary total disability benefits beginning June 12, 2004, and continuing, and 'mental duress,'" on the ground that it had been previously adjudicated and was *res judicata*. We have reviewed the record and the commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Deane v. Marshalls Inc./The TJX Companies, Inc., VWC File No. 219-35-94 (Aug. 15, 2008). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately

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

presented in the materials before the Court and argument would not aid the decisional process.

See Code § 17.1-403; Rule 5A:27.¹

Affirmed.

¹ To the extent that claimant's opening brief or reply brief can be construed as asserting that she is entitled to payment of certain medical bills and expenses, that issue was not before the commission or considered by it when it rendered its decision. Any theory of recovery or argument not raised before the commission will not be considered by this Court for the first time on appeal. See Rule 5A:18; see also Kendrick v. Nationwide Homes, Inc., 4 Va. App. 189, 192, 355 S.E.2d 347, 349 (1987). Accordingly, we will not consider that issue for the first time on appeal. Claimant does not argue that we should invoke the "good cause" or "ends of justice" exceptions to Rule 5A:18, and we decline to do so *sua sponte*. Edwards v. Commonwealth, 41 Va. App. 752, 761, 589 S.E.2d 444, 448 (2003) (*en banc*).