FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D20-3711

RANGER CONSTRUCTION INDUSTRIES, INC./CHARTER OAK FIRE INSURANCE CO. (TRAVELERS),

Appellants,

v.

DALLAS BRAND,

Appellee.

On appeal from an order of the Office of the Judges of Compensation Claims.
Thomas W. Sculco, Judge.

Date of Accident: July 9, 2018.

December 1, 2021

JAY, J.

In this workers' compensation case, the Employer/Carrier (E/C) argue that the evidence failed to establish that Claimant was injured on July 9, 2018, and that there was scant proof that he was ever hurt at work. However, these arguments are difficult to square with the abundant evidence cited by the Judge of Compensation Claims (JCC), evidence which was more than sufficient to establish Claimant's on the job injury. This proof included Claimant's complaint of a July 9, 2018, injury, and his

related request to see a doctor. It also included his treatment at a nearby clinic and his corresponding post-accident drug test. Multiple clinic records confirmed a July 9, 2018, accident date. The date was also corroborated by Dr. Ronald Joseph who diagnosed Claimant "with [a] post-traumatic left shoulder rotator cuff tear secondary to repetitive trauma with a single event complete rotator cuff failure" on July 9, 2018. To counter this formidable evidence, the E/C rely on purported inconsistencies in Claimant's proof, inconsistencies that allegedly require reversal.

But, as we have pointed out on numerous occasions, the standard of review in workers' compensation cases is whether "competent substantial evidence *supports* the decision [], *not* whether it is possible to recite contradictory record evidence which supported the arguments rejected below." *Wintz v. Goodwill*, 898 So. 2d 1089, 1093 (Fla. 1st DCA 2005) (quoting *Mercy Hosp. v. Holmes*, 679 So. 2d 860 (Fla. 1st DCA 1996)). Here, the E/C's arguments consist of little more than references to contrary evidence, evidence that purportedly contradicts Claimant's claim. In *Swanigan v. Dobbs House*, 442 So. 2d 1026, 1027 (Fla. 1st DCA 1983), we made it clear that we will "not retry the claim at the appellate level and substitute our judgment for that of the [JCC] on factual issues supported by competent, substantial evidence . . . ." "[A]ppeals asking us to do so" are baseless. *Id.* Because the issues here "were essentially factual," this appeal—like the one in *Swanigan*—lacks merit. *Id.*

AFFIRMED.

ROWE, C.J., and BILBREY, J., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Steven H. Preston and Lindsey A. Hicks of Hicks, Porter, Ebenfeld, & Stein, P.A., Miami, and Gregory G. Coican of Massey, Coican & King, PLLC, Fort Lauderdale, for Appellants.

Nicholas Ari Shannin of Shannin Law Firm, P.A., Orlando, and David E. Mallen of Newlin Law, Orlando, for Appellee.