IN THE SUPREME COURT OF MISSISSIPPI

NO. 2018-CT-01614-SCT

DELORISE ROLLINS

v.

HINDS COUNTY SHERIFF'S DEPARTMENT AND MISSISSIPPI PUBLIC ENTITIES' WORKERS' COMPENSATION TRUST

ON WRIT OF CERTIORARI

DATE OF JUDGMENT:	10/16/2018
TRIBUNAL FROM WHICH APPEALED:	MISSISSIPPI WORKERS' COMPENSATION COMMISSION
ATTORNEYS FOR APPELLANT:	ROGEN K. CHHABRA RAY GUSTAVIS
ATTORNEYS FOR APPELLEES:	MICHAEL YOUNG H. WESLEY WILLIAMS, III
NATURE OF THE CASE:	CIVIL - WORKERS' COMPENSATION
DISPOSITION:	AFFIRMED - 12/10/2020
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

EN BANC.

GRIFFIS, JUSTICE, FOR THE COURT:

¶1. Quality Choice Correctional Healthcare entered a contract with Hinds County to provide comprehensive medical care to inmates. Delorise Rollins was hired by Quality Choice as a nurse at the Hinds County Detention Center in Raymond and was injured in the course of her duties. At that time, Quality Choice did not carry workers' compensation coverage. As a result, Rollins filed a petition to controvert with the Mississippi Workers' Compensation Commission.

¶2. The Commission found that the Hinds County Sheriff's Department (HCSD) was not Rollins's statutory employer and denied workers' compensation benefits. Rollins then appealed, and the Court of Appeals affirmed the Commission's decision. ***Rollins v. Hinds Cnty. Sheriff's Dep't***, No. 2018-WC-01614-COA, 2019 WL 6875377, at *3 (¶ 11) (Miss. Ct. App. Dec. 17, 2019). This Court granted Rollins's petition for writ of certiorari. Because the HCSD was not Rollins a statutory employer and workers' compensation benefits are not available, we affirm the decisions of the Court of Appeals and the Commission.

FACTS AND PROCEDURAL HISTORY

¶3. On September 24, 2012, Hinds County agreed that Quality Choice would "provide the comprehensive medical, dental . . . , and mental health services for the inmates of Hinds County Detention Centers . . . ." Quality Choice later interviewed and hired Rollins as a nurse at the Hinds County Detention Center in Raymond.

¶4. Rollins claims she sustained injuries while performing her duties at the detention facility on September 2, 2014. Quality Choice continued to pay her wages and provide medical benefits for one year instead of workers' compensation benefits. Once this stopped, however, Rollins filed a petition to controvert with the Commission. Rollins alleged "that HCSD was liable for workers' compensation benefits as her 'statutory employer' because her actual employer, Quality Choice, was without workers' compensation coverage." ***Id.*** at *1 (¶ 1). But the HCSD denied that it was Rollins's "statutory employer."

¶5. The workers' compensation administrative-law judge relied on ***Thomas v. Chevron U.S.A. Inc.***, 212 So. 3d 58 (Miss. 2017), and determined that the HCSD was not the statutory

employer of Rollins for workers' compensation because the HCSD was the owner of the detention center, and Rollins was a Quality Choice employee. "The full Commission affirmed in a one-page order that adopted the administrative judge's ruling." ***Rollins***, 2019 WL 6875377, at *2 (¶ 4).

ANALYSIS

¶6. "This Court's review of a decision of the Workers' Compensation Commission is limited to determining whether the decision was supported by substantial evidence, was arbitrary and capricious, was beyond the scope or power of the agency to make, or violated one's constitutional or statutory rights." ***Gregg v. Natchez Trace Elec. Power Ass'n***, 64 So. 3d 473, 475 (¶ 8) (Miss. 2011) (citing ***Short v. Wilson Meat House, LLC***, 36 So. 3d 1247, 1250 (¶ 17) (Miss. 2010)). We review questions of law de novo. ***Id.***

¶7. Mississippi Code Section 71-3-7(6) (Supp. 2019) provides: "[i]n the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor, unless the subcontractor has secured such payment." The "contractor" is considered the "statutory employer of the subcontractor's employees . . . ." ***Thomas***, 212 So. 3d at 61.

¶8. Here, we must determine whether the HCSD was the statutory employer of Rollins on September 2, 2014. We find that the HCSD was not Rollins's statutory employer. Rollins was an employee of Quality Choice. Quality Choice entered a contract to provide medical services for Hinds County prison facilities. As part of the contract, Quality Choice was required to maintain workers' compensation insurance, but it had been previously

cancelled by the carrier before September 2, 2014.

¶9. Presiding Judge Wilson, writing for the Court of Appeals, correctly ruled:

> We affirm the judgment of the Commission because it correctly determined that HCSD was not a contractor and that Quality Choice was not a subcontractor. In ***Thomas***, 212 So. 3d at 62-64 (¶¶ 13-21), the Supreme Court discussed all the significant precedents applying subsection 71-3-7(6), and there is no need for us to cover all of that ground again today. The key point of these decisions is that a party is considered a "contractor" and a"statutory employer" only if it is within "the common understanding of such terms as 'prime contractor' or 'general contractor.'" ***Id.*** at 63 (¶ 15) (quoting ***Nash v. Damson Oil Corp.***, 480 So. 2d 1095, 1100 (Miss. 1985)). The Supreme Court further explained that a property owner does not become a "contractor" just because it contracts with another entity to do work on its premises. ***Id.*** at 64 (¶ 22). Rather, a "chief or prime contractor is defined as one who *has a contract with the owner of a project or job*, and has full responsibility for its completion." ***Id.*** (emphasis added) (quotation marks omitted). In this case, Hinds County contracted directly with Quality Choice to provide comprehensive medical care for inmates. *That is the only contract in the record in this case*. Neither Hinds County nor HCSD had a"contract" with anyone else. There was only a single contract between Hinds County and Quality Choice. By definition, that is *not* a "subcontract." Therefore, Quality Choice was not a "subcontractor," and HCSD was not a "contractor" or Rollins's statutory employer.

Rollins, 2019 WL 6875377, at *3 (¶ 9).

¶10. Therefore, we determine that the Commission's decision that the HSCD is not a statutory employer was proper, and we affirm the judgment of the Court of Appeals.

¶11. **AFFIRMED.**

MAXWELL, BEAM, CHAMBERLIN AND ISHEE, JJ., CONCUR. KING, P.J., DISSENTS WITH SEPARATE WRITTEN OPINION JOINED BY RANDOLPH, C.J., KITCHENS, P.J., AND COLEMAN, J.

KING, PRESIDING JUSTICE, DISSENTING:

¶12. Because the Court should remand this case to the Commission for full findings

regarding the relationship between Rollins and the HCSD, I respectfully dissent.

¶13. The majority's analysis, like that of the Court of Appeals plurality, hinges on the fact that only a single contract exists. That single contract refers to itself as a "subcontract."[1] Relying only on the number of contracts instead of examining the full relationship between the parties defies both our caselaw and the statutory intent.

¶14. When an employee suffers an injury compensable under workers' compensation law, a contractor is liable for compensation for subcontractor employees when the subcontractor fails to provide compensation. Miss. Code. Ann. § 71-3-7(6) (Supp. 2019) ("In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor, unless the subcontractor has secured such payment."). "It is obvious that the purpose of the legislature was to prevent the general contractor from escaping liability by employing subcontractors who were not financially responsible and leaving the employees unprotected." ***Mills v. Barrett***, 213 Miss. 171, 174–75, 56 So. 2d 485, 486 (1952). Thus, the intent of this statute is to protect employees. ***Id.***; ***Doubleday v. Boyd Constr. Co.***, 418 So. 2d 823, 825 (Miss. 1982).

¶15. This Court has noted that the relationship between the parties should be examined when determining whether a statutory employer/employee relationship exists. ***Richmond v. Benchmark Constr. Corp.***, 692 So. 2d 60, 63 (Miss. 1997). "A 'chief or prime contractor' is defined as one 'who has a contract with the owner of a project or job, and has full

[1] Paragraph 10 states: "ASSIGNMENT AND SUBCONTRACTING. Except as provided herein, neither party may assign this Agreement or subcontract pursuant to it without prior written consent of the other and any assignment of subcontract shall be null and void."

responsibility for its completion.'" ***Thomas v. Chevron U.S.A. Inc.***, 212 So. 3d 58, 64 (Miss. 2017) (quoting *Chief or Prime Contractor*, Business Dictionary, http://www.businessdictionary.com/definition/prime-contractor.html (last visited Jan. 24, 2017)). We have also indicated that the party's "interest, use and activities with respect to the premises" must be considered when determining whether the party is a prime contractor as contemplated by the statute. ***Nash v. Damson Oil Corp.***, 480 So. 2d 1095, 1100 (Miss. 1985). Thus, while ownership of the property and quantity of contracts may be relevant considerations, neither are dispositive in determining whether a party is a contractor and thus a statutory employer. *See, e.g.*, ***Hibbler v. Ingalls Shipbuilding Shipyard***, 298 So. 3d 1022 (Miss. Ct. App. 2019) (owner of the shipyard deemed a statutory employer because it nonetheless met the definition of prime contractor). "A subcontractor is one who enters into a contract, express or implied, for performance of an act with a person who has already contracted for its performance, or who takes a portion of a contract from the principal or prime contractor." ***Rodgers v. Phillips Lumber Co.***, 241 Miss. 590, 593, 130 So. 2d 856, 857 (1961) (internal quotation marks omitted) (quoting Dunn, *Mississippi Workmen's Compensation* § 10). The functions of the parties under these definitions and the relationship between them must be examined to determine what the employment relationship is.

¶16. In ***Thomas***, Chevron contracted with American Plant Services (APS) to provide certain maintenance at Chevron's facility. ***Thomas***, 212 So. 3d at 59. When one of APS's employees sustained an injury, the Court found that Chevron, as the facility owner, was not a prime contractor and thus was not a statutory employer. ***Id.*** The employee could therefore

sue Chevron in tort. ***Id.*** Chevron had nothing akin to a "contract" with an owner, as it was the owner. Nor did it have any "responsibility" for its completion, because Chevron had no duty to itself to maintain its own facility. In contrast, the HCSD had a duty to maintain the jail and inmates. "The sheriff shall have charge of the courthouse and jail of his county, of the premises belonging thereto, and of the prisoners in said jail." Miss. Code. Ann. § 19-25-69 (Rev. 2012). Pursuant to the Eighth Amendment, the HCSD has an "obligation to provide medical care" to those inmates. ***Estelle v. Gamble***, 429 U.S. 97, 103, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976). Hinds County contracted with Quality Choice to assist it in performing the HCSD's responsibility, distinguishing it from ***Thomas***.

¶17. The AJ, the Commission, and the Court of Appeals all failed to conduct a full analysis of the relationship between the parties in determining whether the HCSD was Rollins's statutory employer. The dissent in the Court of Appeals argued that the case should be reversed and remanded "to the Commission to conduct the appropriate analysis and determine the employment relationship among the parties and then make a finding as to whether [the HCSD] is the statutory employer." ***Rollins v. Hinds Cnty. Sheriff's Dep't***, No. 2018-WC-WC-01614-COA, 2019 WL 6875377 at *6 (Miss. Ct. App. Dec. 17, 2019) (Carlton, P.J., dissenting). I agree. I would reverse the order of the Commission, vacate the Court of Appeals' decision, and remand the case to the Commission for an analysis regarding the employment relationship between the HCSD, Quality Choice, and Rollins.

RANDOLPH, C.J., KITCHENS, P.J., AND COLEMAN, J., JOIN THIS OPINION.