

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1996 MTWCC 26

WCC No. 9601-7486

RUSSELL L. STONE

Petitioner

vs.

STATE COMPENSATION INSURANCE FUND

Respondents.

**ORDER REGARDING PETITIONER'S INTENT TO APPEAL
ORDER REQUIRING RESPONSE TO REQUEST FOR POSTPONEMENT**

Summary: Pro se claimant sought to appeal WCC's refusal to disqualify respondent's counsel to District Court, not the Supreme Court.

Held: Under section 39-71-2904, MCA, appeal from any final decision of the Workers' Compensation Court is to the Supreme Court. Petitioner's attempt to perfect an appeal to District Court is a nullity; the Workers' Compensation Court retains jurisdiction over his ongoing case until it receives a proper notice of appeal to the Supreme Court.

Topics:

Appeals (To Supreme Court): Generally. Under section 39-71-2904, MCA, appeal from any final decision of the Workers' Compensation Court is to the Supreme Court. Petitioner's attempt to perfect an appeal to District Court is a nullity; the Workers' Compensation Court retains jurisdiction over his ongoing case until it receives a proper notice of appeal to the Supreme Court.

(SEE FOLLOWING ORDER)

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

RUSSELL L. STONE,

Petitioner,

WCC No. 9601-7486

STATE COMPENSATION INSURANCE FUND,

Respondent/Insurer for

BECK LAND & CATTLE COMPANY,

Employer.

FILED

MAR 15 1996

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

ORDER REGARDING PETITIONER'S INTENT TO APPEAL;
ORDER REQUIRING RESPONSE TO REQUEST FOR POSTPONEMENT

The Court has received several recent communications from petitioner, who is appearing pro sé. The first, received February 23, 1996, requested a change of venue and removal of Mr. Charles G. Adams, who is counsel of record for the respondent, State Compensation Insurance Fund. On March 5, 1996, I issued two Orders, one granting the requested change of venue and the other denying the request to remove Mr. Adams. On March 11, 1996, the Court received a letter from petitioner requesting additional time to appeal the ruling on disqualification. At the direction of the Court, petitioner was notified by letter of the procedures for appealing a decision of this Court to the Montana Supreme Court. On March 15, 1996, the Court received still another letter from petitioner indicating his opinion that the proper route of appeal is to the district court.

Section 39-71-2904, MCA, provides that any appeal from a final decision of the Workers' Compensation Court must be made to the Montana Supreme Court. There is no provision for any appeal to any other court. Therefore, insofar as petitioner is attempting to perfect an appeal to district court, his attempt is a nullity. If he wishes to presently appeal to the Montana Supreme Court then he must file an appropriate notice of appeal as outlined in the Court's March 11, 1996 letter. Unless and until this Court receives a proper notice of appeal to the Supreme Court, it continues to have jurisdiction over this case.

Petitioner in his latest letter further suggests that this Court "put off all litigation, until 1 June 1996." [Sic.] The Court will treat the request as a motion to continue this matter until at least June. It is presently scheduled for late May. The respondent shall have five working days in which to reply to the request.

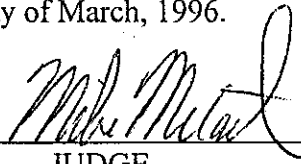
Accordingly,

1. The Workers' Compensation Court continues to have jurisdiction in this case.
2. The respondent shall have five working days in which to respond to petitioner's request that this case be set over until at least June.

SO ORDERED.

Dated in Helena, Montana, this 15th day of March, 1996.

(SEAL)



JUDGE

c: Mr. Russell L. Stone - Certified Mail
Mr. Charles G. Adams

Order Regarding Petitioner's Intent to Appeal;
Order Requiring Response to Request for Postponement - Page 2