

Summary of SC89960, *Mitchell Miller v. Missouri Highway and Transportation Commission*

Appeal from the Missouri Labor and Industrial Relations Commission

Attorneys: Miller was represented by Joseph A. Brannon of Briscoe Rodenbaugh & Brannon in New London, (573) 985-3411; and the commission was represented by Mary Anne Lindsey, Robert E. Bidstrup and Sarah Kraft of Evans & Dixon L.L.C. in St. Louis, (314) 621-7755.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals the Labor and Industrial Relations commission's denial of workers' compensation benefits after he injured his knee while walking at work. In a 6-1 decision written by Chief Justice Laura Denvir Stith, the Supreme Court of Missouri affirms the commission's decision. Under the 2005 amendments to the workers' compensation act, the man's injury does not qualify him for benefits. Judge Richard B. Teitelman dissents. He would reverse the commission's decision and would hold that Miller should receive workers' compensation benefits.

Facts: In September 2005, Missouri Highway and Transportation Commission employee Mitchell Miller experienced a "popping" of his knee, followed by pain, as he walked briskly while working with his crew repairing a section of a Pike County road. Miller's work did not require him to walk briskly, he often walked briskly while not at work and he did nothing differently while walking at work that day. Nothing about the surface on which he walked, his work clothes or the job caused any slip, strain or unusual movement. He did not fall or otherwise sustain any additional injuries due to the popping. Miller reported his injury to his employer, which denied workers' compensation, finding the injury was not work-related. Following a hearing on Miller's claim, the administrative law judge denied benefits, finding that Miller failed to prove he suffered a compensable injury as a result of a work-related accident arising out of and in the course of his employment. The Labor and Industrial Relations Commission affirmed, adopting the ALJ's opinion. Miller appeals.

AFFIRMED.

The Court en banc holds: Miller's injury is not compensable under the workers' compensation act, which was amended in 2005. These amendments changed the definition of "accident" and "injury" and the scope of injuries deemed to arise out of and in the course of employment, required that the act be construed strictly rather than liberally, and required that the evidence be weighed impartially without giving any party the benefit of the doubt. The amendments also abrogated the holdings of three

specifically named cases, and of similar cases, that had permitted recovery for injuries that occurred while doing something required for work, such as walking, where work did not cause or increase the risk or severity of the injury. The injury here is nearly identical to that in one of the cases specifically abrogated by the legislative amendments – *Bennett v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo. App. 2002). Pursuant to those amendments, although the injury still occurred during the course of Miller’s work, it did not arise out of his work. Because the risk of walking was the same as that to which Miller was exposed in his normal life outside his employment, therefore, his injury does not qualify for workers’ compensation benefits.

Dissenting opinion by Judge Teitelman: The author would reverse the commission’s decision and would hold that Miller should receive workers’ compensation benefits. Miller established there was an “accident,” even under the amended definition, because he suffered a sudden, unexpected injury while performing a necessary work-related task. Further, the fact that Miller walks “briskly” while not at work does not mean he is “equally exposed” to the risks of walking while not at work, as there is no obvious equality between working on highways and a recreational walk around the neighborhood.