MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MICHEL ZIADE,

Respondent

v.

QUALITY BUSINESS SOLUTIONS, INC.,

Appellant

DOCKET NUMBER WD83763

DATE: FEBRUARY 9, 2021

Appeal From:

Labor and Industrial Relations Committee

Appellate Judges:

Division Four
Cynthia L. Martin, Chief Judge, Presiding, Mark D. Pfeiffer, Judge, Anthony Rex Gabbert, Judge

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Attorneys:

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Counsel for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MICHEL ZIADE, Respondent,
v.
QUALITY BUSINESS SOLUTIONS, INC., Appellant

WD83763 **Labor and Industrial Relations Committee**

Before Division Four Judges: Cynthia L. Martin, Chief Judge, Presiding, Mark D. Pfeiffer, Judge, Anthony Rex Gabbert, Judge

Quality Business Solutions, Inc. ("QBS") appeals the final award allowing compensation entered by the Labor and Industrial Relations Commission. QBS complains in three points on appeal that the Commission erred in finding Michel Ziade was an employee, in refusing to apply judicial estoppel, and in refusing to apply collateral estoppel.

AFFIRMED IN PART, REVERSED IN PART.

Division Four holds:

(1) Findings that a company entered into a contract making it an employer, that the company did not terminate that contract prior to an employee's death, and that the employee was thus an employee of company at the time of his death were sufficient findings under section 287.460.1, RSMo.

(2) It is within the scope of the Labor and Industrial Relations Commission's jurisdiction to consider whether a party's arguments should be barred by the doctrines of judicial estoppel or collateral estoppel.

(3) Judicial estoppel is not appropriate where it is not clear that the party took inconsistent positions in the two proceedings, where the prior court did not rely on the alleged inconsistent position, where the issue was not fully litigated in the prior proceedings, where the court made no findings regarding the issue in the prior proceeding, where the party did not receive a benefit in the prior action, where the uncontroverted evidence before the current court went against the alleged prior inconsistent position, where the integrity of the courts is not threatened by the prior proceedings, and where no evidence suggests the party has tried to mislead or manipulate the courts.

(4) Collateral estoppel is not appropriate where the issue being contested was not litigated in the prior proceeding, where the court made no finding regarding the issue in the prior proceeding, and where the party did not have a full and fair opportunity to litigate the issue in the prior proceeding.

Opinion by: Anthony Rex Gabbert, Judge Date: February 9, 2021

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