

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LOUISE TOWNSEND,	§
	§ No. 424, 2013
Claimant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
INTEGRATED	§ C.A. No. N13A-02-003
MANUFACTURING AND	§
ASSEMBLY,	§
	§
Employer Below-	§
Appellee.	§

Submitted: August 29, 2013

Decided: October 7, 2013

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices

ORDER

This 7th day of October 2013, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) This is an appeal from the Superior Court’s July 30, 2013 order dismissing an appeal from the January 14, 2013 decision and order of the Industrial Accident Board (the “Board” or the “IAB”), which dismissed the petition for compensation due of the claimant-appellant, Louise Townsend. The employer-appellee, Integrated Manufacturing and Assembly (“Integrated”), has moved to

affirm the Superior Court's judgment on the ground that it is manifest on the face of the opening brief that this appeal is without merit.¹ We agree and affirm.

(2) The record before us reflects that, in May 2008, Townsend, through counsel, filed a petition with the IAB alleging that she suffered an injury to her right knee while working at Integrated. The petition originally was scheduled to be heard in September 2008. However, during a medical examination by a defense expert, an issue arose concerning a possible psychological component of Townsend's alleged injury. A continuance of the hearing was granted to allow for a psychological examination of Townsend by the defense.

(3) The hearing on Townsend's petition was re-scheduled for October 2008. In September 2008, Townsend's counsel withdrew. Later that month, Townsend was hospitalized with depression and her IAB case was stayed. New counsel entered his appearance in the case in December 2008. The hearing was then re-scheduled for April 8, 2009. Because Integrated was having difficulty getting Townsend to cooperate with medical examinations, the hearing date again was continued until June 5, 2009.

(4) A hearing took place on May 21, 2009 to address multiple issues, including Townsend's current deteriorated psychological state, her lack of cooperation with medical examinations scheduled by the defense, her failure to

¹ Supr. Ct. R. 25(a).

produce requested medical documents and her inability to produce a medical expert on her behalf. The Board stayed the case pending Townsend's recovery. The matter remained stayed for almost three years.

(5) In March 2012, Integrated moved for dismissal of Townsend's petition. A hearing was held on the motion on May 17, 2012. Townsend's counsel informed the Board that his client's condition had not changed and she remained unable to participate in the prosecution of her claims. The Board denied Integrated's motion to dismiss, but lifted the stay. Townsend's petition was scheduled to be heard on September 17, 2012. Prior to the hearing, Townsend's counsel withdrew.

(6) A legal hearing was held on September 13, 2012 to address Townsend's failure to respond to Integrated's request for production of medical records. Townsend's husband and daughter appeared and informed the Board that, due to her psychological condition, Townsend remained unable to participate in the proceedings. The Board advised them to retain Delaware counsel and continued the hearing until January 8, 2013. Another hearing was held on December 13, 2012 on Integrated's renewed motion to dismiss Townsend's petition. The Board advised Townsend's husband and daughter that, because Townsend was not competent to represent herself at the hearing, Delaware counsel had to be retained

to represent her by the hearing date of January 8, 2013 or her petition would be dismissed.

(7) On January 8, 2013, Townsend's husband and daughter again appeared in her place. They informed the Board that Townsend was still psychologically unable to appear to present her case. Delaware counsel had not been retained to represent Townsend, no medical evidence had been submitted on her behalf and no medical expert had been retained to support her claims. On January 14, 2013, the Board issued its order dismissing Townsend's petition.

(8) The matter was then appealed to the Superior Court. The record reflects that Townsend's husband and daughter, and not Townsend, filed the appeal papers in the Superior Court. On February 28, 2013, Integrated filed a motion to dismiss the appeal on that ground. On April 17, 2013, the Superior Court informed Townsend that she had 30 days in which to retain Delaware counsel to respond to the motion to dismiss. On May 28, 2013, Townsend's husband sent a letter to the Superior Court judge stating that he was attempting to engage Delaware counsel. On July 30, 2013, in the absence of any evidence that Townsend was now capable of representing herself or that Delaware counsel would be entering an appearance on behalf of Townsend, the Superior Court issued its decision dismissing the appeal on the ground that, by filing the appeal, Townsend's husband and daughter had engaged in the unauthorized practice of law.

(9) As best the Court can discern based upon the papers filed, the grounds for this appeal are that Townsend currently has discomfort in her legs, which she attributes to her employment at Integrated, and that Townsend's husband and daughter were not engaged in the unauthorized practice of law because they were acting pursuant to a power of attorney.

(10) The unauthorized practice of law occurs where there is an exercise of judgment on a matter of Delaware law by a person not admitted to the Delaware Bar on behalf of another person.² Under well-settled Delaware law, a non-party to a lawsuit has no standing to file an appeal in a Delaware court.³ Only a member of the Delaware Bar, a party appearing *pro se* or an attorney appearing *pro hac vice* may participate in such an appeal.⁴ Dismissal is the proper remedy where a party is incapable of representing themselves and an appeal has been filed in a Delaware court on behalf of that party by a non-party who is not an attorney permitted to practice law in the State of Delaware.⁵ Having carefully reviewed the parties' submissions and the record below, we conclude that the Superior Court, having provided Townsend ample opportunity to retain Delaware counsel to represent her

² *Delaware State Bar Ass'n. v. Alexander*, 386 A.2d 652, 654, 661 (Del. 1978).

³ *Townsend v. Griffith*, 570 A.2d 1157, 1158 (Del. 1990) (citing Del. Const. art. IV, §11, Del. Code Ann. tit. 10, §960, Supr. Ct. R. 7 and *Bender v. Williamsport Area School Dist.*, 475 U.S. 534, 541-49 (1986)).

⁴ *Id.* (citing *Delaware State Bar Ass'n v. Alexander*, 386 A.2d 652 (Del. 1978)).

⁵ *Townsend v. Griffith*, 570 A.2d at 1158.

interests, properly dismissed the appeal from the IAB filed by Townsend's husband and daughter.

(11) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.⁶

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁶ As a result of this Court's Order on Integrated's motion to affirm, Integrated's motion to strike and motion to dismiss, as well as the responses thereto, are moot and will not be considered by the Court.