

**Fifth Circuit Court of Appeal
State of Louisiana**

No. 26-C-171

PETER MIRE

versus

JEFFERSON PARISH GOVERNMENT

IN RE PETER MIRE

APPLYING FOR SUPERVISORY WRIT FROM THE OFFICE OF WORKERS' COMPENSATION,
DISTRICT 7, PARISH OF WORKMENS COMP, STATE OF LOUISIANA, DIRECTED TO THE
HONORABLE SHANNON BRUNO BISHOP, No. 25-231

TRUE COPY

June 03, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Jude G. Gravois,
Marc E. Johnson, and Stephen J. Windhorst

**WRIT GRANTED; PARTIAL SUMMARY JUDGMENT
REVERSED; REMANDED FOR FURTHER PROCEEDINGS**

Relator/Claimant, Peter Mire, seeks review of the Office of Workers' Compensation's ("OWC") February 25, 2026 partial summary judgment in favor of Respondent/Defendant, Jefferson Parish ("the Parish"), on the issue of whether his supplemental earnings benefits ("SEBs") were properly terminated. In its motion for summary judgment, the Parish contended that Mr. Mire's treating physicians released him to work in a sedentary capacity; and as a result, it converted Mr. Mire's temporary total disability benefits to SEBs. The Parish argued that, due to a successful vocational rehabilitation and discovery of suitable jobs consistent with Mr. Mire's work release, it reduced the amount of Mr. Mire's SEBs and eventually terminated those benefits after 520 weeks of payments. It sought summary judgment

in its favor and dismissal of Mr. Mire's indemnity and medical claims. The Parish attached the affidavit of Jeannie Lillis, a Vocational Case Manager-President at CoreCare Management, in support of its motion.¹

In opposition, Mr. Mire argued that he is permanently and totally disabled pursuant to the Louisiana Workers' Compensation Act. He further argued that the Parish failed to meet its burden of proving it properly reduced his SEBs. He claimed that the Parish identified jobs that were not suitable for him and/or were not actually available for employment. He objected to Ms. Lillis' affidavit and corresponding attachments, challenging her qualifications to submit expert medical testimony concerning his medical condition or physical work status. To support his opposition, Mr. Mire attached his affidavit, wherein he attested to his medical condition and that he received no responses after contacting the jobs identified by Ms. Lillis.

In its partial summary judgment, the OWC found there were no genuine issues of material fact that Claimant's SEBs were properly reduced on May 1, 2024 and subsequently properly terminated on June 25, 2024 in accordance with Louisiana Revised Statute 23:1221(3)(d). The court then denied the Parish's motion relating to Mr. Mire's entitlement to permanent total disability and found the issue must be determined at a trial on the merits.

A court shall grant a motion for summary judgment if the motion, memorandum, and supporting documents show that there is no genuine issue regarding material facts and that the mover is entitled to judgment as a matter of law. *Gibson v. Jefferson Par. Hosp. Serv. Dist. No. 2*, 23-538 (La. App. 5 Cir. 5/29/24), 389 So.3d 977, 980, citing La. C.C.P. art. 966(A)(3). A material fact is one that potentially ensures or prevents recovery, affects a litigant's ultimate success, or determines the outcome of the lawsuit. *Populis v. State Department of*

¹ The affidavit had various reports and correspondence concerning Mr. Mire's vocational rehabilitation attached to it.

Transportation and Development, 16-655 (La. App. 5 Cir. 5/31/17), 222 So.3d 975, 980, *writ denied*, 17-1106 (La. 10/16/17), 228 So.3d 753. An issue is genuine if it is such that reasonable persons could disagree. *Id.* In determining whether a factual issue is genuine for purposes of summary judgment, a court should not consider the merits, make credibility determinations, evaluate testimony, or weigh evidence. *Crescent City Property Redevelopment Assoc., LLC v. Muniz*, 21-371 (La. 6/1/21), 347 So.3d 682, 684, *reh'g denied*, 21-371 (La. 10/01/21), 324 So.3d 1057.

The issue pertinent to our review is whether there are any remaining genuine issues of material fact as to whether Mr. Mire's SEBs were properly terminated.

An employee is entitled to SEBs if the employee sustains a work-related injury that results in the inability to earn ninety percent (90%) or more of his average pre-injury wage. *Burga v. Am. Remediation Grp., LLC*, 23-26 (La. App. 5 Cir. 12/6/23), 378 So.3d 165, 172, *writ not considered*, 24-47 (La. 3/5/24), 379 So.3d 1269. The employee bears the initial burden of proving by a preponderance of the evidence that the injury caused his inability to earn ninety percent (90%) or more of his average pre-injury wage. *Id.* Once the employee meets this burden, the burden shifts to the employer who, in order to defeat the employee's claim for SEBs, must prove by a preponderance of evidence that the employee is physically able to perform a certain job, and that job was offered or was available to the employee in his or the employer's community or reasonable geographic region. *Id.* If the employer meets this burden, then the employee must establish by clear and convincing evidence that he cannot engage in any employment. *Id.* Evidence is required to determine the claimant's earnings or ability to earn. *Id.*

In this matter, Mr. Mire met his initial burden of proving that the injury caused his inability to earn 90% or more of his average pre-injury wage. For summary judgment purposes, it was then the Parish's burden to prove there were no remaining genuine issues of material fact that Mr. Mire is physically able to perform any of the

identified jobs, and the identified jobs were offered or available to him. After review, we find that the Parish failed to prove it was entitled to summary judgment as a matter of law.

First, there are competing affidavits concerning the availability of the jobs identified by Ms. Lillis. As cited above, evidence is required to determine the claimant's ability to earn; thus, it would be inappropriate to weigh the competing affidavits on summary judgment. Additionally, the OWC denied the Parish's motion for summary judgment on the issue of permanent total disability, finding that the issue must be determined at a trial on the merits. The finding on the issue of permanent total disability alone shows that there is a remaining genuine issue of material fact as to whether Mr. Mire is physically able to perform any of the identified jobs.

Therefore, on *de novo* review, we find that the OWC legally erred in granting partial summary judgment in favor of the Parish on the issue of whether Mr. Mire's SEBs were properly terminated. We reverse the partial summary judgment on that issue and remand the matter for further proceedings.

Gretna, Louisiana, this 3rd day of June, 2026.

MEJ
JGG
SJW

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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FIRST DEPUTY CLERK

MELISSA C. LEDET
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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **06/03/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-C-171

E-NOTIFIED

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Michael F. Nolan, Jr. (Respondent)

MAILED

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