

SUPREME COURT OF LOUISIANA

No. 05-C-1734

APRIL GLAZE

VERSUS

WAL-MART STORES, INC.

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
THIRD CIRCUIT, OFFICE OF WORKERS’ COMPENSATION,
DISTRICT NO. 3**

VICTORY, J., dissenting from the writ denial

While stating that payment of workers’s compensation benefits does not constitute an admission that they are owed, the court of appeal failed to apply the statute. Since Wal-Mart has disputed that an accident occurred and plaintiff was disabled as a result, there can be no penalty or attorneys’ fees at this time for failure to pay the correct amount of benefits. Wal-Mart may prevail at the trial of the case on the merits that there was no accident and/or no resulting disability and no workers’ compensation is owed. Surely, an employer cannot be penalized for failing to pay the “correct” amount of benefits, when no benefits are owed.

I would grant Wal-Mart’s writ application.