

## Ga. Judges Remand Unemployment Denial In COVID-19 Case

By **Kelcey Caulder**

Law360 (March 15, 2022, 5:59 PM EDT) -- A Georgia appellate panel has determined that a lower court wrongly backed the state labor department's denial of a woman's unemployment benefits after she left her job as a medical clinic front office worker out of fear that she might contract COVID-19.

The Georgia Court of Appeals on Monday found that neither the lower court nor the Georgia Department of Labor properly considered whether Jenny Butler was entitled to benefits under an emergency rule implemented during the pandemic that says certain individuals unable to work during COVID-19 who expect to return to work later, including those with recognized medical conditions making them "particularly susceptible" to the virus, should be considered "involuntarily unemployed."

Though the lower court and the state Department of Labor acknowledged that Butler has heart disease and feared for her health due to potential contact with COVID-19 patients at work, the court said proper consideration wasn't given to whether her condition put her at higher risk of infection or if she expected to return to work after the pandemic.

The lower court should remand the case to the state Labor Department for further proceedings, the court said.

According to court documents, Butler began work at Madison Medical Associates PC in 2018 and was responsible for checking patients out after their visits with providers. On March 25, 2020, she learned that a family, all of whom were either symptomatic or had known exposure to COVID-19, would be coming into the office. Because she has coronary artery disease and has had two heart attacks and a stent associated with that condition, Butler decided it was unsafe to remain at work.

In her appeal, Butler said she contacted her employer via text to let him know she wanted to leave work to self-quarantine, saying, "If I still have a job when this passes, I will be back." He replied, "I understand, be safe."

Five days later, Butler messaged her boss to ask for his "thoughts" on her applying for unemployment until she returned. According to court filings, he never responded. They didn't discuss the possibility of her taking on different job duties, when she might return or any other accommodations she might need, and she wasn't asked to return to work.

On April 1, Butler applied for unemployment benefits, stating in a blank box on the online form that she has heart disease and was temporarily unable to work. She was approved that month, but Madison Medical appealed that decision and an administrative hearing was held on the matter. She was eventually disqualified from benefits in August after the administrative hearing officer found she quit her job "for personal reasons."

Butler appealed to the Department of Labor's Board of Review, which agreed she should be disqualified because she "quit under disqualifying conditions." She appealed again to the Superior Court of Morgan County, which held a hearing in late March 2021. The following day, the superior court affirmed the Board of Review's decision. She appealed yet again.

In its appeal, Madison Medical contended that Butler didn't qualify for benefits under the emergency rule because she didn't self-quarantine on the advice of a licensed medical professional and didn't submit documentation showing a recognized medical condition that put her at high risk of COVID-19.

In response, Butler said the emergency rule doesn't require documentation to be submitted and that neither Madison Medical nor the state Department of Labor requested that she submit any.

Representatives for Butler and Madison Medical did not immediately respond to requests for comment Tuesday.

Judges Trea Pipkin, M. Yvette Miller and Kenneth B. Hodges III sat on the panel for the Georgia Court of Appeals.

Butler is represented by Lisa D. Taylor of Stembridge Taylor LLC.

Madison Medical Associates PC and Georgia Department of Labor Commissioner Mark Butler are represented by Tiffany Jones Ellenberg of Tiffany Jones Ellenberg Attorney at Law PC.

The case is Butler v. Butler et al., case number A21A1570, in the Court of Appeals of Georgia.

--Editing by Steven Edelstone.