

SUPREME COURT OF OHIO

State ex rel. Cobble v. Industrial Commission

92 Ohio St. 3d 22 (Ohio 2001) · Decided June 13, 2001

SUMMARY

The Ohio Supreme Court held that R.C. 4123.52 limited retroactive adjustment of the claimant’s workers’ compensation benefits to the two years preceding his application. Although the Bureau of Workers’ Compensation had incorrectly calculated the claimant’s average weekly wage, he waited approximately ten years to seek correction and was therefore not entitled to adjustment of all prior compensation. The court affirmed the denial of his mandamus request and rejected his due process argument.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Douglas; Resnick; F.E. Sweeney; Pfeifer; Cook; Lundberg Stratton
JURISDICTION	Ohio
DECIDED	June 13, 2001
PROCEDURAL POSTURE	Claimant appealed as of right from the denial of his complaint for a writ of mandamus by the Court of Appeals for Franklin County.
STANDARD OF REVIEW	Whether the Industrial Commission abused its discretion in denying mandamus relief; the court also reviewed the commission's application of R.C. 4123.52.
PARTIES	Bobby E. Cobble v. Industrial Commission of Ohio, Bureau of Workers' Compensation

QUESTIONS PRESENTED

1. Whether R.C. 4123.52 barred adjustment of workers' compensation payments for more than two years before Cobble's application to correct his average weekly wage.
2. Whether Cobble's submission of wage information with his original benefits application constituted an earlier application that triggered the two-year period.
3. Whether limiting retroactive compensation adjustment to two years violated due process because the Bureau initially miscalculated the average weekly wage without a hearing.

HOLDINGS

1. R.C. 4123.52 limited Cobble's retroactive compensation adjustment to the two years preceding his application for the adjustment, regardless of whether the requested payment was characterized as an award, enforcement, adjustment, or modification.
2. The court did not decide categorically what document constitutes an application for purposes of R.C. 4123.52 because Cobble's ten-year delay independently barred recovery beyond the two-year period.
3. Limiting Cobble's retroactive adjustment did not violate due process because he could have petitioned the commission for a hearing and corrective relief after the average weekly wage was set, but waited approximately ten years to do so.

FACTUAL BACKGROUND

Bobby E. Cobble was injured in 1986, and the Bureau of Workers' Compensation initially calculated his average weekly wage using an incorrect divisor. The Bureau later recalculated the wage in 1997 using information that had been in the claim file since the original calculation, but limited retroactive compensation adjustments to two years before the recalculation request. Cobble sought adjustment of all compensation paid since his injury, approximately ten years earlier.

PROCEDURAL HISTORY

The Bureau of Workers' Compensation recalculated claimant's average weekly wage in 1997 but limited retroactive compensation adjustments to two years before the recalculation request. The Industrial Commission denied claimant's request for adjustment of all compensation paid since his 1986 injury. The court of appeals denied mandamus relief, and the Supreme Court of Ohio affirmed.