

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Alcon, LLC v. Cledith K. Kincaid

Alcon · No. No. 11-1393 · Decided July 11, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Workers’ Compensation Board of Review decision holding additional medical conditions compensable in Cledith Kincaid’s workplace injury claim. The court concluded that the Board’s decision was not clearly erroneous, unconstitutional, or based on a material misstatement of the evidence.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	July 11, 2013
DOCKET	No. 11-1393
DISPOSITION	affirmed
PROCEDURAL POSTURE	Alcon, LLC appealed the West Virginia Workers’ Compensation Board of Review’s order affirming the Office of Judges’ reversal of a claims administrator’s denial of additional compensable conditions.
STANDARD OF REVIEW	The court reviewed whether the Board of Review’s decision was in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	Alcon, LLC v. Cledith K. Kincaid

TOPICS

- workers compensation
- administrative law
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Workers' Compensation Board of Review erred in affirming the determination that ataxia, cervical, thoracic, and lumbar disc disease, cervical myelopathy, C5/6 disc herniation, and L5/S1 disc herniation were compensable components of Kincaid's claim.
2. Whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly the result of an erroneous conclusion of law, or based on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The court upheld the determination that ataxia, cervical, thoracic, and lumbar disc disease, cervical myelopathy, C5/6 disc herniation, and L5/S1 disc herniation were compensable conditions related to Kincaid's work injury.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly the result of an erroneous conclusion of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error." (at 1)

"For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record." (at 2)

FACTUAL BACKGROUND

Cledith K. Kincaid injured his wrist, neck, and back when a handrail broke as he climbed down from his truck, causing him to fall approximately five feet. His claim was initially held compensable for wrist, neck, and lumbar sprain or strain. He later sought to add ataxia, cervical, thoracic, and lumbar disc disease, cervical myelopathy, C5/6 disc herniation, and L5/S1 disc herniation, relying in part on medical evidence linking those conditions to the work-related injury. The lower tribunals credited Kincaid's testimony that dizziness, headaches, and back problems continued after he returned to work.

PROCEDURAL HISTORY

The claims administrator denied adding several neurological and spinal conditions to Kincaid's workers' compensation claim. The Workers' Compensation Office of Judges reversed that decision and held the conditions compensable. The Board of Review affirmed, and the Supreme Court of Appeals of West Virginia affirmed the Board's final order.

DISPOSITION

affirmed

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