

SUPREME COURT OF ALASKA

McGahuey v. Whitestone Logging, Inc.

262 P.3d 613 (Alaska 2011) · No. No. S-13742 · Decided October 21, 2011

SUMMARY

The Alaska Supreme Court affirmed the Alaska Workers’ Compensation Appeals Commission’s decision rejecting Calvin McGahuey’s workers’ compensation claim arising from a fight at a logging camp. The court held that errors in the analysis of timely notice were harmless because substantial evidence supported the determination that McGahuey had not proven his alleged injuries were work-related. The court also addressed Alaska’s presumption analysis for workers’ compensation claims and the role of credibility findings by the Workers’ Compensation Board.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Stowers, Justice; Carpeneti, Chief Justice; Fabe, Justice; Winfree, Justice; Christen, Justice
JURISDICTION	Alaska
DECIDED	October 21, 2011
DOCKET	No. S-13742
DISPOSITION	affirmed
PROCEDURAL POSTURE	McGahuey appealed the Alaska Workers' Compensation Appeals Commission's affirmance of the Alaska Workers' Compensation Board's decision dismissing his workers' compensation claim.
STANDARD OF REVIEW	The Supreme Court reviewed the Commission's decision, applied independent judgment to questions of law not involving agency expertise, and independently reviewed whether substantial evidence supported the Board's findings, including an independent review of the record and the Board's factual findings.
PRECEDENTIAL VALUE	Published and precedential Alaska Supreme Court opinion.
PARTIES	Calvin L. McGahuey v. Whitestone Logging, Inc., Alaska Timber Insurance Exchange

TOPICS

workers compensation

standard of review

administrative law

appellate procedure

employment law

PRACTICE AREAS

Workers' compensation

Administrative law

Appellate procedure

Employment law

QUESTIONS PRESENTED

1. Whether the Board and Appeals Commission erred in determining that McGahuey failed to provide timely notice of his claimed injuries under AS 23.30.100.
2. When the thirty-day period for providing written notice of an injury begins to run under Alaska law.
3. Whether any error in the Board's or Commission's notice analysis was harmless.
4. Whether substantial evidence supported the determination that McGahuey's claimed back, hip, and ear injuries were not compensable work-related injuries.
5. Whether the Board improperly considered witness credibility at the first stage of Alaska's workers' compensation presumption analysis.

HOLDINGS

1. At the first stage of the workers' compensation presumption analysis, the Board may consider only evidence tending to establish the preliminary link between employment and injury and may not weigh competing evidence or assess witness credibility.
2. An employer rebuts the presumption of compensability by presenting substantial evidence that either provides an alternative explanation excluding work-related factors as a substantial cause of the disability or directly eliminates any reasonable possibility that employment was a factor in causing the disability.
3. Once the employer rebuts the presumption of compensability, the burden shifts to the employee to prove the claim by a preponderance of the evidence, and the Board may then weigh the evidence and assess witness credibility.
4. Errors in determining when the thirty-day notice period began and in applying the notice presumption were harmless when the Commission correctly affirmed the Board's alternative determination that the claimed injuries were not compensable.

KEY QUOTATIONS

"We agree with the Commission, however, that any error the Board made was harmless because the Board did an alternative analysis, assuming that McGahuey had attached the presumption." (620)

"A preexisting back condition alone might not eliminate any reasonable possibility that his employment with Whitestone was a factor in causing later back pain." (621)

FACTUAL BACKGROUND

In March 2004, McGahuey was involved in a fight in a Whitestone logging-camp bunkhouse and later claimed that he injured his back, hip, and ear. He returned to work without missing time, did not provide a written injury

report until April 2005, and filed a workers' compensation claim in February 2006. The Board found that he was not credible, that Whitestone lacked timely notice and was prejudiced by the delay, and alternatively that the claimed injuries were not work related. The evidence included a lack of contemporaneous complaints, prior back problems, normal imaging studies, and medical opinions that did not independently connect the claimed conditions to the fight.

PROCEDURAL HISTORY

The Workers' Compensation Board initially dismissed the claim for untimely notice. The Appeals Commission reversed and remanded because the Board had not applied the required presumption analysis and had made inadequate findings. After a second hearing, the Board again dismissed the claim, finding no timely notice and, alternatively, no compensable work-related injury. The Appeals Commission affirmed, concluding that any error in the notice analysis was harmless because substantial evidence supported the alternative compensability determination. The Alaska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Cogger v. Anchor House, 936 P.2d 157, 160-161 (Alaska 1997)
- Dafermo v. Municipality of Anchorage, 941 P.2d 114, 115-119 (Alaska 1997)
- DeYonge v. NANA/Marriott, 1 P.3d 90, 94-95 (Alaska 2000)
- Shehata v. Salvation Army, 225 P.3d 1106, 1113 (Alaska 2010)
- Barrington v. Alaska Communications Systems Group, Inc., 198 P.3d 1122, 1125 (Alaska 2008)
- Smith v. CSK Auto, Inc., 204 P.3d 1001, 1007 (Alaska 2009)
- Smith v. University of Alaska, Fairbanks, 172 P.3d 782, 788 (Alaska 2007)
- Bradbury v. Chugach Electric Association, 71 P.3d 901, 905-906 (Alaska 2003)
- Osborne Construction Co. v. Jordan, 904 P.2d 386, 392 (Alaska 1995)
- Tolbert v. Alascom, Inc., 973 P.2d 603, 610 (Alaska 1999)
- Resler v. Universal Services, Inc., 778 P.2d 1146, 1148-1149 (Alaska 1989)
- Excursion Inlet Packing Co. v. Ugale, 92 P.3d 413, 417 (Alaska 2004)
- Stephens v. ITT/Felec Services, 915 P.2d 620, 624, 627 (Alaska 1996)
- Veco, Inc. v. Wolfer, 693 P.2d 865, 869 (Alaska 1985)
- Burgess Construction Co. v. Smallwood, 623 P.2d 312, 315 (Alaska 1981)
- Carlson v. Doyon Universal-Ogden Services, 995 P.2d 224, 228 (Alaska 2000)
- Steffey v. Municipality of Anchorage, 1 P.3d 685, 691 (Alaska 2000)