

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Russell A. McWhorter v. Ryan Builders

McWhorter v. Ryan Builders · No. No. 15-1215 · Decided October 26, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Workers’ Compensation Board of Review decision concerning Russell A. McWhorter’s claim arising from a workplace ladder fall. The court upheld the denial of additional lumbar conditions and related medical and temporary total disability benefits, concluding that the lower-back problems were pre-existing and not causally related to the compensable knee injury.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Menis E. Ketchum; Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	October 26, 2016
DOCKET	No. 15-1215
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from a final order of the West Virginia Workers' Compensation Board of Review affirming the Office of Judges' affirmance of multiple claims administrator decisions denying additional compensable conditions, medical treatment, temporary total disability benefits, and continued benefits.
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. The court also considered whether there was a substantial question of law or prejudicial error.
PRECEDENTIAL VALUE	Memorandum decision; no reporter citation appears in the supplied text
PARTIES	Russell A. McWhorter v. Ryan Builders

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of adding old disruption of cruciate ligament, lumbosacral neuritis, and lumbosacral sprain or strain to the workers' compensation claim.
2. Whether the Board of Review erred in affirming the denial of a lumbar MRI, lumbar physical therapy, Prednisone, and continued temporary total disability benefits.
3. Whether the Board of Review erred in affirming closure of temporary total disability benefits after a finding that McWhorter had reached maximum medical improvement.

HOLDINGS

1. The Board of Review properly affirmed the denial of adding old disruption of cruciate ligament, lumbosacral neuritis, and lumbosacral sprain or strain because the evidence supported the conclusion that McWhorter's lumbar complaints were pre-existing and unrelated to the compensable injury.
2. The Board of Review properly affirmed the denial of a lumbar MRI, lumbar physical therapy, Prednisone, and continued temporary total disability benefits.
3. The Board of Review properly affirmed closure of temporary total disability benefits because McWhorter had reached maximum medical improvement for the compensable injury.

KEY QUOTATIONS

“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 4)

“Mr. McWhorter has well documented pre-existing lower back problems.” (at 4)

FACTUAL BACKGROUND

McWhorter, a carpenter, injured his right knee when he fell from a ladder at work on May 24, 2013, and later required knee surgery and physical therapy. Approximately three months after the injury, he began reporting lower-back pain, although medical records documented significant pre-existing lumbar problems, including a herniated disc, degenerative changes, and prior radiculopathy. Several physicians who reviewed the record concluded that his later lumbar complaints were unrelated to the compensable knee injury. The claims administrator denied additional lumbar conditions and related treatment and closed temporary total disability benefits after finding that McWhorter had reached maximum medical improvement.

PROCEDURAL HISTORY

The claims administrator denied requests to add lumbar and knee-related conditions, authorize a lumbar MRI, Prednisone, and physical therapy, and continue temporary total disability benefits; it also closed the claim for temporary total disability benefits. The Workers' Compensation Office of Judges affirmed those decisions on April 28, 2015. The Board of Review adopted the Office of Judges' findings and affirmed on November 24, 2015. The Supreme Court of Appeals of West Virginia affirmed the Board's decision by memorandum decision.

DISPOSITION

affirmed

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