

SUPREME COURT OF FLORIDA

Bradley Westphal v. City of St. Petersburg; City of St. Petersburg v. Bradley Westphal

194 So. 3d 311 (Fla. 2016) · No. Nos. SC13-1930, SC13-1976 · Decided June 9, 2016

SUMMARY

The Florida Supreme Court held that the 104-week limit on temporary total disability benefits under section 440.15(2)(a), Florida Statutes (2009), was unconstitutional as applied to workers who remained totally disabled but had not reached maximum medical improvement. The Court rejected the First District Court of Appeal's saving construction of the statute, quashed its decision, and revived the prior statutory provision allowing up to 260 weeks of temporary total disability benefits. The Court concluded that the statutory gap in benefits violated the Florida Constitution's access-to-courts provision.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Pariente, J.; Labarga, C.J.; Quince, J.; Perry, J.; Lewis, J.; Canady, J.; Polston, J.
JURISDICTION	Florida
DECIDED	June 9, 2016
DOCKET	Nos. SC13-1930, SC13-1976
DISPOSITION	quashed
PROCEDURAL POSTURE	The Florida Supreme Court consolidated discretionary-review proceedings arising from the First District Court of Appeal's en banc decision, which had reversed an earlier panel decision and construed the workers' compensation statute to avoid a statutory gap in disability benefits. The Supreme Court quashed the en banc decision and remanded.
STANDARD OF REVIEW	De novo review of the First District's statutory interpretation; constitutional review of the statute as applied.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Florida.
PARTIES	Bradley Westphal, City of St. Petersburg v. City of St. Petersburg, Bradley Westphal

TOPICS

workers compensation

constitutional law

statutory interpretation

remedies

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether section 440.15(2)(a), Florida Statutes (2009), permits a totally disabled worker who has not reached maximum medical improvement when 104 weeks of temporary total disability benefits expire to be deemed at maximum medical improvement and claim permanent total disability benefits.
2. Whether the 104-week limitation on temporary total disability benefits is unconstitutional as applied to a worker who remains totally disabled and incapable of working but has not reached maximum medical improvement.
3. What remedy is appropriate for the unconstitutional application of the 104-week limitation.

HOLDINGS

1. Section 440.15(2)(a) is plainly written and does not deem a worker to have reached maximum medical improvement merely because the 104-week period for temporary total disability benefits has expired. The statute requires permanent impairment to be determined, not that permanent total disability benefits automatically become available.
2. Section 440.15(2)(a) is unconstitutional as applied to a severely injured worker who remains totally disabled and incapable of working after 104 weeks but has not reached maximum medical improvement, because the resulting gap in disability benefits denies the worker a reasonable alternative to tort litigation and violates article I, section 21, of the Florida Constitution.
3. The proper remedy is statutory revival of the pre-1994 version of section 440.15(2)(a), which allowed temporary total disability benefits for up to 260 weeks.

KEY QUOTATIONS

“The judiciary, however, is without power to rewrite a plainly written statute, even if it is to avoid an unconstitutional result.” (194 So. 3d at 314)

“Permanent impairment benefits are distinct from, and not a substitute for, total disability benefits.” (194 So. 3d at 321)

“We have now reached that point at which ‘the claimant’s cause of action has been effectively eliminated’—the constitutional ‘tipping point’ of which Judge Van Nortwick forewarned.” (194 So. 3d at 325)

“We conclude that the 104-week limitation on temporary total disability benefits, as applied to a worker like Westphal, who falls into the statutory gap at the conclusion of those benefits, does not provide a ‘reasonable alternative’ to tort litigation.” (194 So. 3d at 327)

“For all the reasons explained in this opinion, we hold section 440.15(2)(a), Florida Statutes (2009), unconstitutional as applied to Westphal and all others similarly situated, as a denial of access to courts under article I, section 21, of the Florida Constitution.” (194 So. 3d at 332)

FACTUAL BACKGROUND

In December 2009, Bradley Westphal, a fifty-three-year-old St. Petersburg firefighter, suffered a severe lower-back injury while lifting heavy furniture during firefighting duties. He experienced severe pain and loss of feeling in his left leg, underwent multiple surgeries including a five-level spinal fusion, and remained unable to work. His temporary total disability benefits expired after 104 weeks even though he had not reached maximum medical improvement, leaving him without disability benefits while his employer-selected physicians continued to treat him.

PROCEDURAL HISTORY

After Bradley Westphal's temporary total disability benefits expired, a Judge of Compensation Claims denied his claim for permanent total disability benefits because he had not reached maximum medical improvement and could not establish that his total disability would continue thereafter. A First District panel held the 104-week limitation unconstitutional as applied, but the First District sitting en banc withdrew that decision, adopted a statutory construction deeming certain workers to have reached maximum medical improvement by operation of law, and certified a question of great public importance. The Florida Supreme Court quashed the en banc decision, held the statute unconstitutional as applied, revived the pre-1994 260-week limitation, and remanded.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The First District's en banc decision is quashed, and the case is remanded to the First District for further proceedings consistent with the Supreme Court's opinion, including application of the revived pre-1994 260-week limitation.

CASES CITED

- Brown v. State, 358 So. 2d 16, 20 (Fla. 1978)
- Knowles v. Beverly Enters.-Fla., Inc., 898 So. 2d 1, 5 (Fla. 2004)
- City of Pensacola Firefighters v. Oswald, 710 So. 2d 95, 97-98 (Fla. 1st DCA 1998)
- Matrix Employee Leasing, Inc. v. Hadley, 78 So. 3d 621, 624-26 (Fla. 1st DCA 2011)
- Crum v. Richmond, 46 So. 3d 633, 637 n.3 (Fla. 1st DCA 2010)
- Crist v. Fla. Ass'n of Crim. Def. Lawyers, Inc., 978 So. 2d 134, 139 (Fla. 2008)
- Sult v. State, 906 So. 2d 1013, 1019 (Fla. 2005)
- Clines v. State, 912 So. 2d 550, 558 (Fla. 2005)
- Fla. Dep't of Revenue v. Fla. Mun. Power Agency, 789 So. 2d 320, 324 (Fla. 2001)

- Metro. Dade Cty. v. Bridges, 402 So. 2d 411, 414 (Fla. 1981)
- Makemson v. Martin Cty., 491 So. 2d 1109 (Fla. 1986)
- Kluger v. White, 281 So. 2d 1, 4 (Fla. 1973)
- Psychiatric Assocs. v. Siegel, 610 So. 2d 419, 424 (Fla. 1992)
- Agency for Health Care Admin. v. Associated Indus. of Fla., Inc., 678 So. 2d 1239 (Fla. 1996)
- Martinez v. Scanlan, 582 So. 2d 1167, 1171-72 (Fla. 1991)
- Mullarkey v. Fla. Feed Mills, Inc., 268 So. 2d 363, 366 (Fla. 1972)
- Mahoney v. Sears, Roebuck & Co., 440 So. 2d 1285, 1286 (Fla. 1983)
- Acton v. Fort Lauderdale Hosp., 440 So. 2d 1282, 1284 (Fla. 1983)
- Lee Eng'g & Constr. Co. v. Fellows, 209 So. 2d 454, 456 (Fla. 1968)
- Sasso v. Ram Prop. Mgmt., 452 So. 2d 932, 933 (Fla. 1984)
- Corral v. McCrory Corp., 228 So. 2d 900, 903 (Fla. 1969)
- B.H. v. State, 645 So. 2d 987, 995 (Fla. 1994)
- Staffmark v. Merrell, 43 So. 3d 792, 798 (Fla. 1st DCA 2010)
- Butler v. Bay Ctr./Chubb Ins. Co., 947 So. 2d 570, 572-73 (Fla. 1st DCA 2006)
- Riechmann v. State, 966 So. 2d 298, 304 n.8 (Fla. 2007)
- Dade Cty. v. E. Air Lines, Inc., 212 So. 2d 7, 8 (Fla. 1968)
- Michels v. Orange Cty. Fire Rescue, 819 So. 2d 158, 159-60 (Fla. 1st DCA 2002)
- Newton v. McCotter Motors, Inc., 475 So. 2d 230, 231-32 (Fla. 1985)
- Rhaney v. Dobbs House, Inc., 415 So. 2d 1277, 1279 (Fla. 1st DCA 1982)
- Cortes v. Velda Farms, No. 11-13661-CA-25, 2014 WL 6685226, at *10 (Fla. 11th Cir. Ct. Aug. 13, 2014)
- State v. Fla. Workers' Advocates, 167 So. 3d 500 (Fla. 3d DCA 2015)