

# SUPREME COURT OF APPEALS OF WEST VIRGINIA

## Hampden Coal, LLC v. Casey Colley

No. 19-0373 (W. Va. Sept. 15, 2020) · No. No. 19-0373 (BOR Appeal No. 2053642; Claim No. 2018014363) ·

Decided September 15, 2020

### SUMMARY

The West Virginia Supreme Court of Appeals affirmed a Board of Review decision holding Casey Colley's workers' compensation claim compensable for lumbar sprain/strain and left shoulder sprain/strain arising from a workplace fall. The court concluded that the work injury caused sprain/strain conditions superimposed on preexisting degenerative conditions and upheld remand for consideration of temporary total disability benefits.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                                                                                                                                                                                                       |
| WRITING FOR THE COURT | Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison                                                                                                                                                                                                                                        |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                                                                                                                                                                   |
| DECIDED               | September 15, 2020                                                                                                                                                                                                                                                                                                                                                              |
| DOCKET                | No. 19-0373 (BOR Appeal No. 2053642; Claim No. 2018014363)                                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Hampden Coal appealed the West Virginia Workers' Compensation Board of Review's affirmance of an Office of Judges order holding Casey Colley's claim compensable for lumbar sprain/strain and left shoulder sprain/strain and remanding for determination of temporary total disability benefits.                                                                               |
| STANDARD OF REVIEW    | The decision of the Board of Review would be affirmed unless it clearly violated a constitutional or statutory provision, clearly resulted from erroneous conclusions of law, or was so clearly wrong on the evidentiary record that, even resolving all inferences in favor of the Board's findings, reasoning, and conclusions, there was insufficient support to sustain it. |
| PRECEDENTIAL VALUE    | Memorandum decision; the opinion states that it was issued under Rule 21 of the West Virginia Rules of Appellate Procedure.                                                                                                                                                                                                                                                     |

## TOPICS

workers compensation

judicial review of agency action

administrative law

appellate procedure

standard of review

## PRACTICE AREAS

workers compensation

administrative law

appellate procedure

## QUESTIONS PRESENTED

1. Whether substantial evidence supported holding Colley's workers' compensation claim compensable for lumbar sprain/strain and left shoulder sprain/strain despite preexisting degenerative conditions.
2. Whether the Board of Review's decision affirming the Office of Judges was clearly erroneous or otherwise subject to reversal under the applicable standard of review.
3. Whether the claim was properly remanded for determination of any temporary total disability benefits attributable to the compensable sprain/strain injuries.

## HOLDINGS

1. The evidence supported compensability of a lumbar sprain/strain and left shoulder sprain/strain caused by the work-related fall, superimposed on preexisting degenerative conditions.
2. The Board of Review's decision was not clearly erroneous, legally defective, or unsupported by the evidentiary record and therefore had to be affirmed.
3. The claim was properly remanded for determination of whether temporary total disability benefits were appropriate and, if so, attributable to the compensable lumbar sprain/strain and left shoulder sprain.

## 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 so clearly wrong based upon the evidentiary record that even when all inferences are resolved in favor of the Board of Review's findings, reasoning and conclusions, there is insufficient support to sustain the decision."*  
(at 3)

## FACTUAL BACKGROUND

Casey Colley, a coal miner, slipped and fell at work on December 15, 2017, injuring his left shoulder and lower back. Medical records documented shoulder and back symptoms after the fall, while imaging also showed degenerative conditions and the record established a history of preexisting lumbar and left shoulder problems. An independent medical examiner attributed Colley's continuing complaints to preexisting lumbar spondylosis, rotator cuff tendinosis, and arthrosis, but the Office of Judges and Board of Review found that the work incident caused lumbar and shoulder sprains superimposed on those preexisting conditions.

## PROCEDURAL HISTORY

The claims administrator rejected the claim on March 21, 2018. The Office of Judges reversed that decision on November 2, 2018, held the claim compensable for lumbar sprain/strain and left shoulder sprain, and remanded for consideration of temporary total disability benefits. The Board of Review affirmed on March 22, 2019. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

## DISPOSITION

affirmed

## REMAND INSTRUCTIONS

The lower tribunals' remand for determination by the claims administrator of whether temporary total disability benefits were appropriate and attributable to the compensable lumbar sprain/strain and left shoulder sprain was left in place.