

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Michael Greenlee v. Selah Corporation

Greenlee · No. No. 12-1099 · Decided April 2, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia reversed the Workers’ Compensation Board of Review’s denial of Michael Greenlee’s claim arising from a lower-back injury sustained while working for Selah Corporation. The Court held that Greenlee established a personal injury received in the course of and resulting from his employment under West Virginia Code § 23-4-1 and found that the Board’s decision was based on a material misstatement or mischaracterization of the evidence.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II; Chief Justice Robin J. Davis
JURISDICTION	West Virginia
DECIDED	April 2, 2014
DOCKET	No. 12-1099
DISPOSITION	reversed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s final order affirming denial of workers’ compensation benefits.
STANDARD OF REVIEW	The Board of Review’s decision was subject to reversal because it resulted from erroneous conclusions of law or a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Published memorandum decision
PARTIES	Michael Greenlee v. Selah Corporation

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Greenlee established that he sustained a personal injury in the course of and resulting from his employment under West Virginia Code § 23-4-1.
2. Whether the Workers' Compensation Board of Review was plainly wrong in affirming denial of the claim based on alleged inconsistencies and pre-existing conditions.

HOLDINGS

1. Greenlee satisfied the three elements of West Virginia Code § 23-4-1 by proving a personal injury received in the course of employment and resulting from employment; therefore, the claim was compensable.
2. The Board of Review was plainly wrong to affirm denial of Greenlee's application because its decision resulted from erroneous conclusions of law or a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"We find that Mr. Greenlee has satisfied the three elements of West Virginia Code § 23-4-1 (2008) because he has a (1) personal injury (2) that he received in the course of employment and (3) resulting from employment, and therefore, we reverse the Board of Review and hold the claim compensable." (at 2)

FACTUAL BACKGROUND

Michael Greenlee worked as a coal miner and scoop operator for Selah Corporation. On September 2, 2010, he stepped into a hole while hanging fly pads and twisted his lower back. He reported the injury to his employer on September 11 and September 13, 2010, and Dr. Joseph Marinacci treated him on September 13, diagnosed lumbar disc without myelopathy, lumbosacral strain or sprain, and thoracic subluxation, and attributed the condition directly to the workplace injury.

PROCEDURAL HISTORY

The claims administrator denied Greenlee's application for workers' compensation benefits on November 24, 2010. The Workers' Compensation Office of Judges affirmed the denial on February 29, 2012, and the Board of Review affirmed that decision on August 24, 2012. The Supreme Court of Appeals reviewed Greenlee's appeal and reversed the Board of Review.

DISPOSITION

reversed

OPINION

PER CURIAM.

STATE OF WEST VIRGINIA FILED SUPREME COURT OF APPEALS April 2, 2014 RORY L. PERRY II, CLERK SUPREME COURT OF APPEALS MICHAEL GREENLEE, OF WEST VIRGINIA Claimant Below, Petitioner vs.) No. 12-1099 (BOR Appeal No. 2046992) (Claim No. 2011015887) SELAH CORPORATION, Employer Below, Respondent MEMORANDUM DECISION Petitioner Michael Greenlee, by Edwin H. Pancake, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review.

Selah Corporation, by Matthew L. Williams, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated August 24, 2012, in which the Board affirmed a February 29, 2012, Order of the Workers' Compensation Office of Judges.

In its Order, the Office of Judges affirmed the claims administrator's November 24, 2010, decision denying Mr. Greenlee's application for workers' compensation benefits. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration. This Court has considered the parties' briefs and the record on appeal.

The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds that the Board of Review's decision is based upon a material misstatement or mischaracterization of the evidentiary record. This case satisfies the "limited circumstances" requirement of Rule 21(d) of the Rules of Appellate Procedure and is appropriate for a memorandum decision rather than an opinion.

Mr. Greenlee worked as a coal miner/scoop operator for Selah Corporation. He suffered an injury while hanging fly pads when he stepped into a hole and twisted his lower back on September 2, 2010. Joseph Marinacci, D.C., concluded that Mr. Greenlee had injured his back as a direct result of his occupational injury on September 2, 2010.

The claims administrator rejected Mr. Greenlee's application for workers' compensation benefits and held that Mr. Greenlee was not injured in the course of and as a result of his employment. 1 The Office of Judges affirmed the claims administrator's decision and held that the preponderance of the evidence finds that a compensable injury did not occur on September 2, 2010.

The Board of Review affirmed the Office of Judges' Order. On appeal, Mr. Greenlee disagrees and asserts that despite the perceived inconsistencies he has proven by reliable evidence that he suffered a low back injury at work. Selah Corporation maintains that the evidence of record contains numerous contradictions and inconsistencies sufficient to support the conclusion that Mr. Greenlee's complaints are related to pre-existing conditions and not a specific injury on September 2, 2010.

The Board of Review was plainly wrong to affirm the Office of Judges' Order denying Mr. Greenlee's application for workers' compensation benefits. Mr. Greenlee was injured on

September 2, 2010. Mr. Greenlee first reported the injury to Selah Corporation on September 11, 2010, when he called off work because of his back pain and further reported the injury to Mr. Robinette, the mine supervisor, on September 13, 2010.

Mr. Greenlee sought medical treatment on September 13, 2010, from Dr. Marinacci who saw him for his back pain with an onset date of September 2, 2010, and diagnosed him with lumbar disc without myelopathy, lumbosacral strain/sprain, and thoracic subluxation. Dr. Marinacci completed the physician portion of the Employee's and Physician's Report of Injury on November 5, 2010, and stated that Mr. Greenlee injured his low back as a direct result of an occupational injury on September 2, 2010.

We find that Mr. Greenlee has satisfied the three elements of West Virginia Code § 23-4-1 (2008) because he has a (1) personal injury (2) that he received in the course of employment and (3) resulting from employment, and therefore, we reverse the Board of Review and hold the claim compensable.

For the foregoing reasons, we find that the decision of the Board of Review is clearly the result of erroneous conclusions of law or is based upon a material misstatement or mischaracterization of the evidentiary record.

Therefore, the decision of the Board of Review is reversed. Reversed. ISSUED: April 2, 2014
CONCURRED IN BY: Justice Brent D. Benjamin Justice Margaret L. Workman Justice Menis E. Ketchum Justice Allen H. Loughry II DISSENTING: Chief Justice Robin J. Davis 2