

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Larry J. Black v. Alliant Techsystems-ATK

Black · No. No. 20-0634 (BOR Appeal No. 2055161) (Claim No. 2019011013) · Decided February 1, 2022

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Larry J. Black’s workers’ compensation claim for a right shoulder injury allegedly sustained while removing a missile from a crate at work. The court held that the evidence did not establish that the shoulder condition was an injury received in the course of and resulting from employment, particularly because the medical evidence indicated chronic degenerative conditions.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice John A. Hutchison; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice Evan H. Jenkins; Justice William R. Wooton
JURISDICTION	West Virginia
DECIDED	February 1, 2022
DOCKET	No. 20-0634 (BOR Appeal No. 2055161) (Claim No. 2019011013)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s affirmance of the rejection of his workers’ compensation claim.
STANDARD OF REVIEW	The court gives deference to the Board of Review’s findings, reasoning, and conclusions. When the Board affirms prior rulings by the commission and Office of Judges on the same issue, reversal or modification is permitted only for a clear constitutional or statutory violation, erroneous conclusions of law, or a material misstatement or mischaracterization of the evidentiary record; the court may not reweigh the evidence de novo. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Memorandum decision; the opinion states that it is issued under Rule 21 and finds no substantial question of law.
PARTIES	Larry J. Black v. Alliant Techsystems-ATK

TOPICS

workers compensation

administrative procedure act

appellate procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Black established that his right-shoulder condition was a compensable personal injury received in the course of and resulting from his employment.
2. Whether the Board of Review's affirmance of the rejection of the claim was clearly erroneous under the applicable workers' compensation standard of review.

HOLDINGS

1. Black failed to meet his burden of showing that he sustained a personal injury in the course of and resulting from his employment because the medical evidence indicated preexisting degenerative shoulder conditions and did not establish that the alleged workplace event caused the claimed injury.
2. The Board of Review's decision did not warrant reversal or modification because Black identified no clear constitutional or statutory violation, erroneous conclusion of law, or material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"The court may not conduct a de novo re-weighing of the evidentiary record." (at 1)

"Mr. Black has failed to meet his burden of showing that he sustained an injury in the course of and resulting from his employment." (at 3)

FACTUAL BACKGROUND

Larry J. Black, an explosives operator, alleged that he injured his right shoulder on October 10, 2018, while removing a missile or missile motors from a crate at work. He reported feeling a pull in his shoulder and was unable to work the following day. An MRI showed a retracted full-thickness tendon tear, muscular atrophy, degenerative joint changes, and a degenerative labrum tear; a physician's age-of-injury analysis characterized the findings as chronic. Black denied prior right-shoulder injuries or treatment, but he did not submit treatment notes or an Employees' and Physicians' Report of Injury.

PROCEDURAL HISTORY

The claims administrator rejected Black's claim on January 21, 2019. The Workers' Compensation Office of Judges affirmed the rejection on February 13, 2020, and the Board of Review affirmed that decision on July 30, 2020. Black appealed to the Supreme Court of Appeals of West Virginia, which affirmed the Board's decision by memorandum decision.

DISPOSITION

affirmed

CASES CITED

- Hammons v. W. Va. Off. of Ins. Comm'r, 235 W. Va. 577, 582-83, 775 S.E.2d 458, 463-64 (2015)
- Justice v. West Virginia Office Insurance Commission, 230 W. Va. 80, 83, 736 S.E.2d 80, 83 (2012)
- Davies v. W. Va. Off. of Ins. Comm'r, 227 W. Va. 330, 334, 708 S.E.2d 524, 528 (2011)
- Pennington v. State Workmen's Comp. Comm'r, 154 W. Va. 378, 175 S.E.2d 440 (1970)
- Barnett v. State Workmen's Comp. Comm'r, 153 W. Va. 796, 172 S.E.2d 698 (1970)

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