

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Bayer Cropscience, LP v. Steven Davis

Bayer Cropscience · No. No. 16-0865 · Decided October 10, 2017

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Board of Review's decision holding Steven Davis's occupational hearing loss compensable under workers' compensation. The court concluded that the evidence supported a work-related sensorineural hearing loss and rejected Bayer CropScience's challenge to the findings regarding prior ear problems and audiometric testing.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Per Curiam; Chief Justice Allen H. Loughry II; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Menis E. Ketchum                                                                                                                |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                                                            |
| DECIDED               | October 10, 2017                                                                                                                                                                                                                                                         |
| DOCKET                | No. 16-0865                                                                                                                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Employer appealed the West Virginia Workers' Compensation Board of Review's decision affirming an Office of Judges order that reversed the claims administrator and held the claimant's occupational hearing-loss claim compensable.                                     |
| 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 upon a material misstatement or mischaracterization of the evidentiary record. |
| PRECEDENTIAL VALUE    | Memorandum decision; precedential effect is not stated in the opinion text.                                                                                                                                                                                              |
| PARTIES               | Bayer Cropscience, LP v. Steven Davis                                                                                                                                                                                                                                    |

TOPICS

workers compensation

administrative law

judicial review of agency action

appellate procedure

standard of review

## PRACTICE AREAS

workers compensation

employment law

administrative law

appellate procedure

## QUESTIONS PRESENTED

1. Whether Davis's hearing loss was work-related and therefore compensable under the workers' compensation system.
2. Whether the Board of Review's decision affirming compensability was clearly erroneous under the applicable appellate standard.

## HOLDINGS

1. The evidence supported the determination that Davis sustained a work-related sensorineural hearing loss, notwithstanding his history of noncompensable conductive ear problems.
2. The Board of Review's decision was affirmed because it was not in clear violation of a constitutional or statutory provision, did not clearly result from erroneous conclusions of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

## 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 3)*

## FACTUAL BACKGROUND

Steven Davis worked as a machine operator for Bayer Cropscience for more than twenty years and was exposed to machinery noise, steam leaks, and loud pumps before moving to an office job in March 2014. He alleged occupational hearing loss and submitted medical evidence from Drs. Corro, Mabry, and Stout attributing or supporting bilateral sensorineural hearing loss associated with industrial noise exposure. Davis also had a history of childhood and later ear problems, including conductive hearing loss and tympanic membrane issues. The Office of Judges found that he had been exposed to hazardous workplace noise and that the evidence established a work-related sensorineural hearing loss, while the Board of Review adopted those findings.

## PROCEDURAL HISTORY

The claims administrator denied Davis's hearing-loss claim on May 26, 2015. The Office of Judges reversed the denial on April 22, 2016, held the claim compensable, and modified the date of last exposure to March 1, 2014. The Board of Review affirmed on August 17, 2016, and the Supreme Court of Appeals affirmed the Board's decision.

## DISPOSITION

affirmed

#### INSTRUCTIONS FOR AN AI ASSISTANT

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