

SOUTH DAKOTA SUPREME COURT

Arends v. Dacotah Cement

2002 SD 57 (2002) · No. #22081, #22084 · Decided May 15, 2002

SUMMARY

The South Dakota Supreme Court affirmed an award of workers’ compensation benefits to Allan Arends, holding that cumulative work-related trauma to his knee was a major contributing cause of his physical impairment. The court declined to apply the last injurious exposure rule because there was no subsequent employment or dispute between successive employers or insurers. It also upheld the denial of a statutory penalty because a good-faith dispute existed regarding liability.

CASE DETAILS

COURT	South Dakota Supreme Court
WRITING FOR THE COURT	Gilbertson, Chief Justice; Sabers, Justice; KonenKamp, Justice; Gors, Acting Justice
JURISDICTION	South Dakota
DECIDED	May 15, 2002
DOCKET	#22081, #22084
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dacotah Cement appealed the South Dakota Department of Labor's workers' compensation decision to the circuit court, which affirmed the award; Dacotah then appealed to the South Dakota Supreme Court, and Arends filed a notice of review regarding denial of a statutory penalty.
STANDARD OF REVIEW	Administrative factual findings receive great weight and are overturned only if clearly erroneous; findings based solely on deposition testimony are reviewed de novo. Questions of law and statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	Published South Dakota Supreme Court opinion; precedential
PARTIES	Dacotah Cement, Berkley Administrators v. Allan Arends

TOPICS

workers compensation

administrative law

judicial review of agency action

statutory interpretation

plain meaning rule

PRACTICE AREAS

workers compensation

administrative law

statutory interpretation

QUESTIONS PRESENTED

1. Whether Arends suffered a work-related injury that was a major contributing cause of his physical impairment.
2. Whether South Dakota's last injurious exposure rule applies when there is no subsequent employment.
3. Whether the absence of a good-faith dispute entitled Arends to a penalty under SDCL 62-4-10.1.

HOLDINGS

1. Arends established through medical evidence that cumulative, repetitive trauma from his work activities was a work-related injury and a major contributing cause of his degenerative knee condition and resulting impairment.
2. The last injurious exposure rule does not apply where there is no subsequent employment or subsequent employment-related activity contributing independently to the disability, impairment, or need for treatment.
3. Arends was not entitled to the statutory penalty because a good-faith dispute existed regarding whether his work was a major contributing cause of his disability.

KEY QUOTATIONS

“Thus, Arends must prove: (1) that his injury was work-related; and (2) that the work-related injury was a major contributing cause of the condition complained of, which is the physical impairment.” (¶ 13)

“The Legislature intended this section of the statute to settle disputes between two or more employers or insurers.” (¶ 19)

FACTUAL BACKGROUND

Allan Arends worked for Dacotah Cement for more than 30 years in a job requiring repetitive stooping and kneeling on concrete. In 1996, he fell through ice while trapping muskrat and injured his right knee; surgery revealed both an acute meniscal tear and chronic degenerative osteoarthritis. Medical evidence attributed the chronic condition in substantial part to cumulative trauma from his work activities, and the Department of Labor awarded workers' compensation benefits.

PROCEDURAL HISTORY

The Department of Labor found that Arends suffered a 17 percent right lower-extremity impairment, that his work activities were a major contributing cause, and that he was entitled to temporary total and permanent total disability benefits under the odd-lot doctrine. It denied a penalty under SDCL 62-4-10.1 because a good-faith

dispute existed. The circuit court affirmed the Department's decision, modified one factual finding concerning aggravation by the fall through the ice, rejected application of the last injurious exposure rule, and affirmed denial of the penalty. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Gilchrist v. Trail King Indus., Inc., 2000 SD 68, ¶ 4, 612 N.W.2d 1
- Goebel v. Warner Transp., 2000 SD 79, ¶ 10, 612 N.W.2d 18
- Butte County v. Vallery, 1999 SD 142, ¶ 8, 602 N.W.2d 284
- Steinberg v. S.D. Dep't of Military & Veterans Affairs, 2000 SD 36, ¶¶ 6, 10, 607 N.W.2d 596
- Martinmaas v. Engelmann, 2000 SD 85, ¶ 49, 612 N.W.2d 600
- Moss v. Guttormson, 1996 SD 76, ¶ 10, 551 N.W.2d 14
- Kester v. Colonial Manor of Custer, 1997 SD 127, ¶ 17, 571 N.W.2d 376
- Grauel v. S.D. Sch. of Mines & Tech., 2000 SD 145, ¶¶ 9, 14, 19-21, 619 N.W.2d 260
- Truck Ins. Exch. v. CNA, 2001 SD 46, ¶ 19, 624 N.W.2d 705
- Enger v. FMC, 1997 SD 70, ¶ 12, 565 N.W.2d 79
- Tischler v. United Parcel Serv., 1996 SD 98, ¶ 77, 552 N.W.2d 597
- Mattis v. Weaver Electric, Inc., 2000 SD 150, ¶ 8, 619 N.W.2d 526
- Faircloth v. Raven Indus., Inc., 2000 SD 158, ¶ 16, 620 N.W.2d 198

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