

SUPREME COURT OF OKLAHOMA

Gorden v. Braums Inc.

Gorden, 2018 OK 74 (Okla. 2018) · No. 116276 · Decided September 18, 2018

SUMMARY

The Oklahoma Supreme Court affirmed the Oklahoma Workers' Compensation Commission's decision upholding the constitutionality of provisions of the Administrative Workers' Compensation Act requiring use of the latest American Medical Association Guide to evaluate permanent partial disability. The court relied on its recent decision in Hill v. American Medical Response, which resolved the same issue. The opinion was issued per curiam, with some justices concurring by reason of stare decisis and others dissenting.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Per curiam; Chief Justice Combs; Justice Winchester; Justice Wyrick; Justice Darby; Justice Kauger; Justice Colbert; Vice Chief Justice Gurich; Justice Edmondson; Justice Reif
JURISDICTION	Oklahoma
DECIDED	September 18, 2018
DOCKET	116276
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Oklahoma Workers' Compensation Commission En Banc affirming an administrative law judge's decision awarding permanent partial disability benefits.
STANDARD OF REVIEW	The court reviewed the record and briefs and decided the constitutional issue as a matter already resolved by precedent.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court memorandum opinion; the court applied its recent precedent in resolving the constitutional issue.
PARTIES	Kalesha Gorden v. Braums Inc., The Workers' Compensation Commission

TOPICS

- workers compensation
- constitutional law
- administrative law
- appellate procedure

PRACTICE AREAS

workers compensation

constitutional law

administrative law

QUESTIONS PRESENTED

1. Whether the Administrative Workers' Compensation Act provisions requiring use of the latest edition of the American Medical Association's Guide to evaluate and award permanent partial disability are constitutional.

HOLDINGS

1. The Administrative Workers' Compensation Act provisions requiring use of the American Medical Association's Guide to evaluate and award permanent partial disability are constitutional.

KEY QUOTATIONS

“In Hill this Court held the required use of the AMA Guide in the AWCA was constitutional.” (¶2)

FACTUAL BACKGROUND

Kalesha Gorden suffered a compensable workplace injury after the Administrative Workers' Compensation Act took effect. An administrative law judge awarded her permanent partial disability benefits using the American Medical Association's Guide as required by the Act. Gorden challenged the constitutionality of the statutory provisions mandating that methodology.

PROCEDURAL HISTORY

Gorden suffered a compensable injury after the effective date of the Administrative Workers' Compensation Act. The administrative law judge awarded permanent partial disability and rejected Gorden's constitutional challenge to statutory provisions requiring use of the latest edition of the American Medical Association's Guide to evaluate permanent partial disability. The Oklahoma Workers' Compensation Commission En Banc affirmed, and Gorden appealed to the Oklahoma Supreme Court.

DISPOSITION

affirmed

CASES CITED

- Hill v. American Medical Response, 2018 OK 57

OPINION

PER CURIAM.

GORDEN v. BRAUMS INC. Skip to Main Content Accessibility Statement Help Contact Us e-payments Careers Home Courts Decisions Programs News Legal Research Court Records Quick Links OSCN Found Document:GORDEN v. BRAUMS INC. Previous Case Top Of Index This

Point in Index Citationize Next Case Print Only GORDEN v. BRAUMS INC.2018 OK 74Case Number: 116276Decided: 09/18/2018THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2018 OK 74, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. KALESHA GORDEN, Petitioner, v. BRAUMS INC. and THE WORKERS' COMPENSATION COMMISSION, Respondents. MEMORANDUM OPINION COMBS, C.J.: ¶1 This is an appeal of an Order Affirming Decision of Administrative Law Judge by the Oklahoma Workers' Compensation Commission En Banc, on July 31, 2017. Petitioner suffered a compensable injury after the effective date of the Administrative Workers' Compensation Act (AWCA) (Title 85A).

The Administrative Law Judge awarded Petitioner Permanent Partial Disability (PPD). Petitioner challenged the constitutionality of several sections of the AWCA which mandate the exclusive use of the latest edition of the American Medical Association's Guide (AMA Guide) to evaluate and award PPD.

The ALJ found the use of the AMA Guide to be constitutional. The Oklahoma Workers' Compensation Commission En Banc affirmed. The dispositive issue on appeal concerns the constitutionality of the sections of the AWCA which mandate the use of the AMA Guide. This cause was assigned to this office on March 28, 2018. ¶2 Upon review of the record and briefs of the parties, this Court has determined the issues raised in this appeal have already been decided in our recent opinion, Hill v. American Medical Response, 2018 OK 57, ____P.3d____, 2018 WL 3121718.

In Hill this Court held the required use of the AMA Guide in the AWCA was constitutional. The Order of the Oklahoma Workers' Compensation Commission En Banc is affirmed. ¶3 Combs, C.J., Winchester, Wyrick and Darby, JJ., concur; ¶4 Kauger and Colbert, JJ., concur by reason of stare decisis; ¶5 Gurich, V.C.J., Edmondson and Reif, JJ., dissent. Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.

Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases CiteNameLevel 2018 OK 57, HILL v. AMERICAN MEDICAL RESPONSECited oscn EMAIL: webmaster@oscn.net Oklahoma Judicial Center 2100 N Lincoln Blvd. Oklahoma City, OK 73105 courts Supreme Court of Oklahoma Court of Criminal Appeals Court of Civil Appeals District Courts decisions New Decisions Supreme Court of Oklahoma Court of Criminal Appeals Court of Civil Appeals programs The Sovereignty Symposium Alternative Dispute Resolution Early Settlement Mediation Children's Court Improvement Program (CIP) Judicial Nominating Commission Certified Courtroom Interpreters Certified Shorthand Reporters Accessibility ADA Contact Us Careers Accessibility ADA

