

SUPREME COURT OF TENNESSEE

Judy Kilburn v. Granite State Insurance Company, et al.

Judy Kilburn v. Granite State Insurance Co., 522 S.W.3d 384 (Tenn. 2017) · No. M2015-01782-SC-R3-WC ·
Decided April 10, 2017

SUMMARY

The Tennessee Supreme Court reviewed whether the death of Charles Kilburn from acute oxycodone toxicity was compensable as a consequence of his work-related injuries. The court held that his failure to take oxycodone according to his physician's instructions, combined with alcohol use, constituted an independent intervening cause that severed the causal connection to the work injury. The court reversed the chancery court's award of workers' compensation death benefits.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Roger A. Page; Jeffrey S. Bivins; Cornelia A. Clark; Sharon G. Lee; Holly Kirby
JURISDICTION	Tennessee
DECIDED	April 10, 2017
DOCKET	M2015-01782-SC-R3-WC
DISPOSITION	reversed
PROCEDURAL POSTURE	Employer Ryan Brown and Granite State Insurance Company appealed a chancery court judgment awarding workers' compensation death benefits to Judy Dianne Kilburn. The Tennessee Supreme Court reviewed the case on appeal by permission after the appeal was transferred from a Special Workers' Compensation Appeals Panel.
STANDARD OF REVIEW	Factual issues in a workers' compensation case are reviewed de novo on the record with a presumption of correctness unless the evidence preponderates otherwise. Considerable deference is given to factual determinations based on live testimony. The reviewing court may draw its own conclusions regarding the weight and credibility of deposition-based expert medical testimony. Conclusions of law are reviewed de novo with no presumption of correctness.
PRECEDENTIAL VALUE	Published Tennessee Supreme Court opinion; binding precedent in Tennessee.

PARTIES

Ryan T. Brown, Granite State Insurance Company v. Judy Dianne Kilburn

TOPICS

workers compensation

appellate procedure

standard of review

insurance

PRACTICE AREAS

workers' compensation

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QUESTIONS PRESENTED

1. Whether the evidence preponderated against the chancery court's finding that Charles Kilburn's death from acute oxycodone toxicity was a direct and natural consequence of his compensable work-related injuries.
2. Whether Kilburn's failure to take opioid medication as prescribed and his consumption of alcohol while taking the medication constituted an independent intervening cause that severed the causal connection between the work injury and his death.
3. Whether the evidence established that pain, anxiety, dependency, or withdrawal diminished Kilburn's judgment sufficiently to make the overdose a consequence of the original work injury rather than an independent intervening cause.

HOLDINGS

1. An employee's negligence may constitute an independent intervening cause that relieves the employer of liability for a subsequent injury or death purportedly flowing from a prior compensable work injury; reckless or intentional misconduct is not required.
2. The evidence preponderated against the finding that Kilburn's death was a direct and natural consequence of his work-related injury; his failure to follow medication instructions and resulting overdose severed the causal link.

KEY QUOTATIONS

“[W]e reject the employee’s argument that only reckless or intentional misconduct can constitute an intervening cause. Instead, we find, as we did in Jones, that negligence is the appropriate standard for determining whether an independent intervening cause relieves an employer of liability for a subsequent injury purportedly flowing from a prior work-related injury.” (at 398-99)

“We emphasize the narrowness of the holding in this case. The analysis and holding are very fact specific to the case at bar.” (Opinion at -10-)

FACTUAL BACKGROUND

Charles Kilburn sustained cervical and lumbar injuries in a motor vehicle accident arising out of his employment. His neck surgery improved his neck pain, but recommended lumbar surgery and epidural injections

were denied, and he was referred to pain management. He was prescribed oxycodone, sometimes took more than prescribed, and consumed alcohol while taking the medication; he died approximately six months after the cervical surgery from acute oxycodone toxicity with alcohol as a contributing factor. The trial court credited expert testimony that pain or anxiety related to the work injury may have contributed to the overdose, but the Supreme Court found that evidence insufficient and held that his medication misuse constituted an independent intervening cause.

PROCEDURAL HISTORY

After a bench trial, the Williamson County Chancery Court found that Charles Kilburn's death from an oxycodone overdose was compensable as a direct and natural consequence of his work-related injuries and awarded death benefits to his widow, Judy Kilburn. The employer appealed. The appeal was initially referred to a Special Workers' Compensation Appeals Panel, but the Tennessee Supreme Court transferred the matter for review and reversed the chancery court's judgment.

DISPOSITION

reversed

CASES CITED

- Kilburn v. Granite State Insurance Co., No. M2011-00011-WC-R3-WC, 2011 WL 10621663 (Tenn. Workers' Comp. Panel Nov. 30, 2011)
- Madden v. Holland Group of Tennessee, Inc., 277 S.W.3d 896 (Tenn. 2009)
- Tryon v. Saturn Corp., 254 S.W.3d 321 (Tenn. 2008)
- Foreman v. Automatic Systems, Inc., 272 S.W.3d 560 (Tenn. 2008)
- Orrick v. Bestway Trucking, Inc., 184 S.W.3d 211 (Tenn. 2006)
- Seiber v. Reeves Logging, 284 S.W.3d 294 (Tenn. 2009)
- Goodman v. HBD Industries, Inc., 208 S.W.3d 373 (Tenn. 2006)
- Layman v. Vanguard Contractors, Inc., 183 S.W.3d 310 (Tenn. 2006)
- Elmore v. Travelers Insurance Co., 824 S.W.2d 541 (Tenn. 1992)
- Talley v. Virginia Insurance Reciprocal, 775 S.W.2d 587 (Tenn. 1989)
- Tindall v. Waring Park Association, 725 S.W.2d 935 (Tenn. 1987)
- Rogers v. Shaw, 813 S.W.2d 397 (Tenn. 1991)
- Anderson v. Westfield Group, 259 S.W.3d 690 (Tenn. 2008)
- Simpson v. H.D. Lee Co., 793 S.W.2d 929 (Tenn. 1990)
- Guill v. Aetna Life & Casualty Co., 660 S.W.2d 42 (Tenn. 1983)
- Jones v. Huey, 357 S.W.2d 47 (Tenn. 1962)
- Shelton v. Central Mutual Insurance Co., No. E2008-00553-WC-R3-WC, 2009 WL 1110476 (Tenn. Workers' Comp. Panel Apr. 24, 2009)
- Wheeler v. Glen Falls Insurance, 513 S.W.2d 179 (Tenn. 1974)

- Boyd v. Young, 246 S.W.2d 10 (Tenn. 1951)

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