

SUPREME COURT OF APPEALS OF WEST VIRGINIA

McKinney v. Kingston Mining, Inc.

No. 20-0391 · No. No. 20-0391 · Decided September 27, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a decision denying Johnny McKinney a permanent partial disability award arising from a compensable right-knee sprain. The court concluded that the evidence supported attributing the claimant's 4% impairment to non-compensable preexisting degenerative conditions rather than to the work-related injury. Two justices dissented, concluding that the meniscal tear was caused by the workplace incident.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Evan H. Jenkins; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton
JURISDICTION	West Virginia
DECIDED	September 27, 2021
DOCKET	No. 20-0391
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers' Compensation Board of Review's affirmance of an Office of Judges order affirming a claims administrator's award of 0% permanent partial disability for a compensable right-knee sprain.
STANDARD OF REVIEW	Under W. Va. Code § 23-5-15(b), 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 constitutional or statutory violation, clearly erroneous legal conclusions, or material misstatement or mischaracterization of the evidentiary record, and the Court may not conduct a de novo reweighing of the evidence. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published memorandum decision; precedential effect is not otherwise specified in the opinion text.
PARTIES	Johnny McKinney v. Kingston Mining, Inc.

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

PRACTICE AREAS

workers compensation

employment law

administrative law

QUESTIONS PRESENTED

1. Whether the Board of Review clearly erred or materially mischaracterized the evidentiary record in affirming a 0% permanent partial disability award.
2. Whether the evidence established that McKinney's right-knee meniscal tear and resulting impairment were caused by the compensable work injury rather than preexisting degenerative disease.

HOLDINGS

1. When the Board of Review affirms prior rulings by the commission and Office of Judges on the same issue, the Supreme Court may reverse or modify only upon a constitutional or statutory violation, clearly erroneous conclusions of law, or a material misstatement or mischaracterization of the evidentiary record; it may not reweigh the evidence de novo.
2. The Board of Review properly affirmed the 0% permanent partial disability award because the evidence supported the conclusion that the entire 4% impairment resulted from noncompensable preexisting degenerative conditions, while the compensable right-knee sprain caused no residual impairment.

KEY QUOTATIONS

"The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration." (at 1)

"The evidence of record indicates that 4% impairment results from Mr. McKinney's non-compensable conditions, and 0% impairment results from the compensable right-knee sprain of November 1, 2017." (at 5)

FACTUAL BACKGROUND

McKinney, a mine foreman, injured his right knee on November 1, 2017, when his knee buckled and dislocated while he was carrying a heavy rubber curtain across uneven railway tracks at work. Medical imaging and subsequent surgery showed a medial meniscus tear along with substantial preexisting degenerative changes. The claim was ultimately found compensable for a right-knee sprain, but the medical opinions differed on whether the meniscal tear and resulting impairment were caused by the work injury or preexisting degeneration. The Office of Judges credited an opinion attributing the entire 4% impairment to preexisting degenerative arthrosis and awarded 0% impairment from the compensable injury.

PROCEDURAL HISTORY

The claims administrator initially rejected the claim, but the Office of Judges later ruled the right-knee sprain compensable, and the Board of Review affirmed that ruling. The claims administrator then granted a 0%

permanent partial disability award. The Office of Judges affirmed the 0% award on November 6, 2019, and the Board of Review affirmed on May 21, 2020. The Supreme Court of Appeals affirmed the Board's order.

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)
- Kingston Mining, Inc. v. McKinney, No. 18-0788 (W. Va. Supreme Court, February 13, 2020) (memorandum decision)
- McKinney v. Kingston Mining, Inc., No. 20-0137, 2021 WL 2022136 (W. Va. May 20, 2021)