

DISTRICT OF COLUMBIA COURT OF APPEALS

Combs v. District of Columbia Department of Employment Services

983 A.2d 1004 (D.C. 2009) · No. No. 08-AA-1403 · Decided November 25, 2009

SUMMARY

The District of Columbia Court of Appeals affirmed a Compensation Review Board decision awarding David H. Combs a 1% permanent partial disability for a 1991 work-related shoulder and arm injury. The court held that substantial evidence supported the administrative finding that the more serious injury and subsequent surgery were attributable to a 1996 accident, for which Combs's claim was time-barred. The court noted concerns with aspects of the administrative law judge's reasoning but concluded that those deficiencies did not undermine the dispositive findings.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Schwelb, Senior Judge; Thompson, Associate Judge; Steadman, Senior Judge
JURISDICTION	District of Columbia
DECIDED	November 25, 2009
DOCKET	No. 08-AA-1403
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a Compensation Review Board decision affirming an Administrative Law Judge's workers' compensation order awarding Combs a 1% permanent partial disability for his 1991 right-arm and shoulder injury.
STANDARD OF REVIEW	The court reviews agency factual findings, as affirmed by the Compensation Review Board, for substantial evidence and must uphold the agency action if supported by substantial evidence even when substantial evidence could support a contrary conclusion.
PRECEDENTIAL VALUE	Published precedential opinion of the District of Columbia Court of Appeals.
PARTIES	David H. Combs v. District of Columbia Department of Employment Services

TOPICS

workers compensation

judicial review of agency action

standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the ALJ's finding that Combs's surgery-related injury and substantial disability resulted from a 1996 accident rather than the 1991 accident was supported by substantial evidence.
2. Whether the ALJ's award of a 1% permanent partial disability for the 1991 injury lacked substantial evidentiary support.

HOLDINGS

1. The ALJ's finding that the accident resulting in Combs's surgery and other significant difficulties occurred in 1996, and not in 1991, was supported by substantial evidence.
2. The 1% permanent partial disability finding was not shown to lack substantial evidentiary support, and the court affirmed it.

KEY QUOTATIONS

“Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” (983 A.2d at 1009)

“We cannot hold that a finding based on his own oft-reiterated assertion is not supported by substantial evidence.” (983 A.2d at 1011)

FACTUAL BACKGROUND

Combs, a former WMATA bus driver, was injured in a 1991 bus collision and received temporary workers' compensation benefits. In 2003, he filed a new claim identifying a 1996 accident as the source of his right shoulder injury, and several physicians likewise recorded 1996 as the injury year. After a claims examiner concluded that a 1996 claim was time-barred, Combs obtained later medical reports attributing his condition to the 1991 accident, but the ALJ rejected those reports and found that the 1991 accident resulted in only a 1% permanent partial disability.

PROCEDURAL HISTORY

After an evidentiary hearing, a DOES Administrative Law Judge found that Combs's surgery-related injury arose from a 1996 accident and that the 1991 accident caused only a 1% permanent disability. The Compensation Review Board unanimously affirmed the Compensation Order. Combs petitioned the District of Columbia Court of Appeals for review, arguing that the ALJ erred in evaluating the facts and law and that he had sustained a 32% disability.

DISPOSITION

affirmed

CASES CITED

- Zhang v. District of Columbia Department of Consumer and Regulatory Affairs, 834 A.2d 97, 101 (D.C. 2003)
- King v. District of Columbia Department of Employment Services, 560 A.2d 1067, 1072 (D.C. 1989)
- Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938)
- Marriott International v. District of Columbia Department of Employment Services, 834 A.2d 882, 885 (D.C. 2003)
- Poulnot v. District of Columbia, 608 A.2d 134, 139 (D.C. 1992)
- Washington Metropolitan Area Transit Authority v. District of Columbia Department of Employment Services, 683 A.2d 470, 477 (D.C. 1996)
- Dell v. District of Columbia Department of Employment Services, 499 A.2d 102 (D.C. 1985)
- Morris v. United States, 728 A.2d 1210, 1215 (D.C. 1999)
- In re S.G., 581 A.2d 771, 774-75 (D.C. 1990)
- Broadcast Music, Inc. v. Havana Madrid Restaurant Corp., 175 F.2d 77, 80 (2d Cir. 1949)
- American Security Bank v. American Motorists Insurance Co., 538 A.2d 736, 739-41 (D.C. 1988)
- Anderson v. City of Bessemer City, N.C., 470 U.S. 564, 574-75 (1985)
- Capitol Hill Hospital v. District of Columbia Department of Employment Services, 726 A.2d 682, 684-86 (D.C. 1999)
- Golding-Alleyne v. District of Columbia Department of Employment Services, 980 A.2d 1209, 1214 (D.C. 2009)