

SUPREME COURT OF OKLAHOMA

McClanahan v. City of Tulsa

McClanahan, 2019 OK 15 (Okla. 2019) · No. 115802 · Decided April 2, 2019

SUMMARY

The Oklahoma Supreme Court affirmed an Oklahoma Workers' Compensation Commission decision involving a permanent partial disability award to Brian McClanahan. The court held that the challenged use of the American Medical Association's Guide and the employer credit authorized by 85A O.S. § 89 were constitutional, relying on its prior decisions in *Hill v. American Medical Response* and *Braitsch v. City of Tulsa*.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Combs, J.; Wyrick, V.C.J.; Winchester, J.; Darby, J.; Edmondson, J.; Kauger, J.; Gurich, C.J.; Colbert, J.; Reif, J.
JURISDICTION	Oklahoma
DECIDED	April 2, 2019
DOCKET	115802
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 and allowing the City of Tulsa a credit against the award.
STANDARD OF REVIEW	Constitutionality of the challenged provisions of the Administrative Workers' Compensation Act reviewed as a question of law; the court reviewed the record and briefs.
PRECEDENTIAL VALUE	precedential
PARTIES	Brian McClanahan v. City of Tulsa, Own Risk #10435, Oklahoma Workers' Compensation Commission

TOPICS

workers compensation

administrative law

judicial review of agency action

constitutional law

municipal law

PRACTICE AREAS

workers compensation

constitutional law

administrative law

municipal law

QUESTIONS PRESENTED

1. Whether the Administrative Workers' Compensation Act's requirement that permanent partial disability be evaluated using the latest edition of the American Medical Association's Guide is constitutional.
2. Whether the employer credit against a permanent partial disability award authorized by 85A O.S. § 89 is constitutional.

HOLDINGS

1. The statutory requirement that the American Medical Association's Guide be used to evaluate and award permanent partial disability under the Administrative Workers' Compensation Act is constitutional.
2. The employer credit against permanent partial disability awards authorized by 85A O.S. § 89 is constitutional.

FACTUAL BACKGROUND

McClanahan sustained a compensable injury after the effective date of Oklahoma's Administrative Workers' Compensation Act. The ALJ awarded him permanent partial disability benefits but allowed the City of Tulsa a \$9,758.27 credit under 85A O.S. § 89. McClanahan challenged the constitutionality of the statutory requirement that permanent partial disability be evaluated using the latest edition of the American Medical Association's Guide and the constitutionality of the employer credit.

PROCEDURAL HISTORY

An administrative law judge awarded McClanahan permanent partial disability benefits and granted the City of Tulsa a \$9,758.27 credit under 85A O.S. § 89. The ALJ rejected McClanahan's constitutional challenges to the Administrative Workers' Compensation Act provisions requiring use of the AMA Guide and permitting the employer credit. The Workers' Compensation Commission En Banc affirmed, and McClanahan appealed to the Oklahoma Supreme Court.

DISPOSITION

affirmed

CASES CITED

- Hill v. American Medical Response, 2018 OK 57, 423 P.3d 1119
- Braitsch v. City of Tulsa, 2018 OK 100

OPINION

PER CURIAM.

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CITY OF TULSA2019 OK 15Case Number: 115802Decided: 04/02/2019THE SUPREME
COURT OF THE STATE OF OKLAHOMA Cite as: 2019 OK 15, __ P.3d __ NOTICE: THIS
OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. BRIAN
MCCLANAHAN, Petitioner, v. CITY OF TULSA, OWN RISK #10435, and THE
WORKERS'COMPENSATION COMMISSION, Respondents. MEMORANDUM OPINION
COMBS, J.: ¶1 This is an appeal of an Order Affirming Decision of Administrative Law Judge by
the Oklahoma Workers' Compensation Commission En Banc filed on February 21, 2017.

Petitioner suffered a compensable injury after the effective date of the Administrative Workers'
Compensation Act (AWCA) (Title 85A). The Administrative Law Judge (ALJ) awarded Petitioner
Permanent Partial Disability (PPD).

The ALJ also determined the City of Tulsa was entitled to a credit from the PPD award in the sum
of \$9,758.27, pursuant to 85A O.S. § 89. The 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.

In addition, he challenged the constitutionality of the credit against PPD awards provided by 85A
O.S. § 89. The ALJ found the use of the AMA Guide as well as the credit against PPD awards to
be constitutional. The Oklahoma Workers' Compensation Commission En Banc affirmed.

The dispositive issues on appeal concern the constitutionality of the sections of the AWCA which
mandate the use of the AMA Guide as well as the employer credit against PPD awards. 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 opinions, *Hill v. American Medical Response*, 2018 OK 57, 423 P.3d 1119 and *Braitsch v.*
City of Tulsa, 2018 OK 100, __P.3d_____, 2018 WL 6617141.

In *Hill* this Court held the required use of the AMA Guide in the AWCA was constitutional. In
Braitsch, this Court held the credit provided under 85A O.S. § 89 was constitutional. The Order of
the Oklahoma Workers' Compensation Commission En Banc is affirmed. ¶3 Wyrick, V.C.J.,
Winchester, Combs and Darby, JJ., concur. ¶4 Edmondson, J., concurs by reason of stare decisis.
¶5 Kauger, J., concurs in part; dissents in part; Kauger, J., concurring in part and dissenting in part
I am concurring in part and dissenting in part for the reasons I expressed in *Hill v. American*
Medical Response, 2018 OK 57, 423 P.3d 1119. ¶6 Gurich, C.J., Colbert and Reif, JJ., dissent.

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Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases CiteNameLevel
2018 OK 57, 423 P.3d 1119, HILL v. AMERICAN MEDICAL RESPONSEDiscussed at Length
2018 OK 100, BRAITSCH v. CITY OF TULSACited Title 85A. Workers' Compensation
CiteNameLevel 85A O.S. 89, Reimbursement - DeductionsDiscussed at Length oscn EMAIL:
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