

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Paul Harrison v. City of Charleston

Harrison · No. No. 18-0303 · Decided November 2, 2018

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of a request for a pain-clinic evaluation in a workers' compensation claim arising from a lumbar sprain. The court agreed that the claimant's ongoing symptoms and requested treatment were attributable to preexisting degenerative conditions and postsurgical scarring rather than the compensable injury. The court issued the decision as a memorandum decision under Rule 21 and found no clear legal or constitutional error in the Board of Review's decision.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Paul T. Farrell, sitting by temporary assignment; Justice Tim Armstead; Justice Evan H. Jenkins
JURISDICTION	West Virginia
DECIDED	November 2, 2018
DOCKET	No. 18-0303
DISPOSITION	affirmed
PROCEDURAL POSTURE	Harrison appealed the West Virginia Workers' Compensation Board of Review's affirmance of the denial of a request for evaluation of treatment at a pain clinic.
STANDARD OF REVIEW	The court reviewed whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based upon a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	memorandum decision; no reporter citation appears in the source
PARTIES	Paul Harrison v. City of Charleston

TOPICS

workers compensation

judicial review of agency action

administrative law

standard of review

appellate procedure

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of an evaluation for treatment at a pain clinic.
2. Whether the Board of Review's decision was clearly erroneous, legally erroneous, constitutionally or statutorily invalid, or based on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The Board of Review properly affirmed the denial because the evidence supported the conclusion that Harrison's ongoing symptoms and requested treatment were attributable to preexisting degenerative spinal disease and postsurgical scarring rather than the compensable lumbar sprain.
2. A Board of Review decision will be affirmed when it is not in clear violation of a constitutional or statutory provision, not clearly the result of erroneous conclusions of law, and not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

“a preponderance of the evidence indicates the claimant’s current symptoms are substantially similar to the symptoms he had before April 8, 2016.” (at 3)

“Therefore, the decision of the Board of Review is affirmed.” (at 4)

FACTUAL BACKGROUND

Paul Harrison, a firefighter and emergency medical technician, suffered a compensable lumbar sprain while transferring a patient on April 8, 2016. He had an extensive preexisting history of lumbar disc herniations, degenerative disease, radiculopathy, and prior L4-5 surgery. After the 2016 injury, imaging showed degenerative changes, foraminal stenosis, and scar tissue without an obvious surgical lesion; his treating surgeon attributed the ongoing symptoms to postsurgical scarring, while an independent medical evaluator opined that further treatment would address the preexisting degenerative condition rather than the compensable sprain.

PROCEDURAL HISTORY

The claims administrator denied the requested pain-clinic evaluation on April 5, 2017. The Office of Judges affirmed the denial on October 16, 2017, and the Board of Review adopted the Office of Judges' findings and affirmed on March 6, 2018. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

DISPOSITION

affirmed

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