

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Nana Ramsey, Widow of Dennis Ramsey v. West Virginia Office of Insurance Commissioner/Consolidation Coal Company

Ramsey · No. No. 11-0753 (BOR Appeal No. 2045168) (Claim No. 2008020507) · Decided February 5, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of dependent's workers' compensation benefits to Nana Ramsey following her husband's death. The court held that the evidence supported the finding that occupational pneumoconiosis did not materially contribute to his death, which was attributed to severe cardiac dysfunction.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	February 5, 2013
DOCKET	No. 11-0753 (BOR Appeal No. 2045168) (Claim No. 2008020507)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's order affirming the Office of Judges' reversal of the claims administrator's grant of dependent's benefits.
STANDARD OF REVIEW	The Court reviewed whether the Board of Review's decision violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Nana Ramsey, Widow of Dennis Ramsey v. West Virginia Office of Insurance Commissioner, Consolidation Coal Company

TOPICS

workers compensation

administrative law

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported the determination that occupational pneumoconiosis did not materially contribute to Dennis Ramsey's death.
2. Whether the Workers' Compensation Board of Review's decision affirming the denial of dependent's benefits violated a constitutional or statutory provision, resulted from an erroneous conclusion of law, or rested on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The evidence supported the finding that occupational pneumoconiosis did not materially contribute to Dennis Ramsey's death; his death resulted from severe cardiac dysfunction unrelated to coal-dust exposure.
2. The Board of Review's decision did not clearly violate a constitutional or statutory provision, result from an erroneous conclusion of law, or rely on a material misstatement or mischaracterization of the evidentiary record.

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)

“Therefore, the decision of the Board of Review is affirmed.” (at 2)

FACTUAL BACKGROUND

Dennis Ramsey died on October 13, 2007, from cardiopulmonary arrest and severe emphysema. An Occupational Pneumoconiosis Board initially found that occupational pneumoconiosis materially contributed to his death, but later explained that it had not previously reviewed records documenting his severe cardiac dysfunction. After reviewing the complete medical record, the Occupational Pneumoconiosis Board and an independent medical reviewer concluded that severe ischemic cardiomyopathy and cardiac failure caused the death and that coal-dust exposure played no material role.

PROCEDURAL HISTORY

Nana Ramsey filed a claim for dependent's benefits after her husband's death. The claims administrator initially granted benefits, but the Workers' Compensation Office of Judges reversed that decision, finding that occupational pneumoconiosis did not materially contribute to the death. The Board of Review affirmed, and the Supreme Court of Appeals of West Virginia affirmed the Board of Review.

DISPOSITION

affirmed

OPINION

PER CURIAM.

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS FILED

February 5, 2013

RORY L. PERRY II, CLERK

NANA RAMSEY, WIDOW OF DENNIS RAMSEY, SUPREME COURT OF APPEALS

OF WEST VIRGINIA

Claimant Below, Petitioner

vs.) No. 11-0753 (BOR Appeal No. 2045168)

(Claim No. 2008020507)

WEST VIRGINIA OFFICE OF

INSURANCE COMMISSIONER

Commissioner Below, Respondent

and

CONSOLIDATION COAL COMPANY,

Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Nana Ramsey, by J. Thomas Greene Jr., her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Consolidation Coal Company, by Stephen Higgins, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated April 6, 2011, in which the Board affirmed a September 2, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges reversed the claims administrator's September 23, 2008, decision granting dependent's benefits. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these

reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

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Ms. Ramsey filed a claim for dependent's benefits on November 20, 2007, following the death of her husband, Dennis, who died on October 13, 2007. The cause of death was listed as cardiopulmonary arrest and severe emphysema. On July 10, 2008, the Occupational Pneumoconiosis Board found that occupational pneumoconiosis was a material contributing factor in the decedent's death, despite finding only minimal x-ray evidence of occupational pneumoconiosis. The Board noted that the decedent had received a lifetime permanent partial disability award of 77.5% for occupational pneumoconiosis. On June 21, 2009, Dr. Renn conducted an independent medical review and found that the decedent died from intractable left ventricular cardiac failure owing to very severe ischemic cardiomyopathy, and that occupational pneumoconiosis was neither the cause of nor a contributing factor to his death. On May 5, 2010, the Occupational Pneumoconiosis Board testified that following its 2008 evaluation, more medical records became available, and that in 2008 the Board was unaware of the decedent's cardiac dysfunction. The Occupational Pneumoconiosis Board reiterated its 2008 finding of minimal radiographic evidence of occupational pneumoconiosis. The Board testified that after reviewing the complete medical record, the decedent died as a result of severe cardiac dysfunction, and exposure to coal dust played no material role in his death.

In its Order reversing the September 23, 2008, claims administrator's decision, the Office of Judges held that occupational pneumoconiosis did not contribute in any material way to the decedent's death. Ms. Ramsey disputes this finding and asserts that the evidence of record demonstrates that occupational pneumoconiosis materially contributed to her husband's death.

The Office of Judges noted that both the Occupational Pneumoconiosis Board and Dr. Renn found that the decedent had a substantial history of deteriorating heart problems. The Office of Judges found that at the time of the Occupational Pneumoconiosis Board's initial recommendation, the medical records documenting his heart problems were unavailable. Finally, the Occupational Pneumoconiosis Board found that the decedent's heart problems caused his death and were so severe that his death was completely unrelated to coal dust exposure, despite a substantial lifetime permanent partial disability award for occupational pneumoconiosis. The Board of Review reached the same reasoned conclusions in its decision of April 6, 2011. We agree with the reasoning and conclusions of the Board of Review.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record. Therefore, the decision of the Board of Review is affirmed.

Affirmed.

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ISSUED: February 5, 2013

CONCURRED IN BY:

Chief Justice Brent D. Benjamin

Justice Robin J. Davis

Justice Margaret L. Workman

Justice Menis E. Ketchum

Justice Allen H. Loughry II

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