

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Alice Thomas, Widow of John Thomas v. West Virginia Office of Insurance Commissioner/Keystone Service Industries, Inc.

No. 13-1060 · No. No. 13-1060 · Decided November 12, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Alice Thomas’s claim for dependent’s workers’ compensation benefits following her husband’s death from metastatic lung cancer. The court held that the evidence supported the conclusion that occupational pneumoconiosis did not materially contribute to his death. The court issued the decision as a memorandum decision under Rule 21 of the West Virginia Rules of Appellate Procedure.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 12, 2014
DOCKET	No. 13-1060
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s affirmance of an order denying dependent’s benefits. The Supreme Court of Appeals reviewed the matter under West Virginia appellate standards and affirmed.
STANDARD OF REVIEW	The Board of Review’s decision will be affirmed unless it is in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision under West Virginia Rule of Appellate Procedure 21
PARTIES	Alice Thomas, Widow of John Thomas v. West Virginia Office of Insurance Commissioner, Keystone Service Industries, Inc.

TOPICS

workers compensation

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence established that John Thomas's occupational pneumoconiosis materially contributed to his death so as to entitle his widow to dependent's workers' compensation benefits.
2. Whether the Board of Review's denial of dependent's benefits was clearly erroneous, legally erroneous, constitutionally or statutorily invalid, or based on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. A claimant seeking dependent's benefits must establish that an occupational disease or injury contributed in any material degree to the decedent's death; the evidence did not establish that occupational pneumoconiosis materially contributed to John Thomas's death.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly the result of erroneous conclusions of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"In Bradford v. Workers' Compensation Comm'r, Syl. Pt. 3, 185 W.Va. 434, 408 S.E.2d 13 (1991), this Court held that in order to establish entitlement to dependent's benefits, a claimant must show that an occupational disease or injury "contributed in any material degree to the death." (2)

"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." (2)

FACTUAL BACKGROUND

John Thomas died on June 5, 2011, from metastatic lung cancer. His death certificate listed coal worker's pneumoconiosis, end-stage renal disease, and diabetes mellitus as secondary conditions, and he had previously received a 20% lifetime award for occupational pneumoconiosis. The Occupational Pneumoconiosis Board concluded, based on the medical evidence and testimony, that occupational pneumoconiosis did not materially contribute to his death, cause or delay his lung-cancer diagnosis, or hamper his treatment.

PROCEDURAL HISTORY

Following John Thomas's June 5, 2011 death, Alice Thomas sought dependent's workers' compensation benefits. The claims administrator denied the application on January 5, 2012. The Workers' Compensation

Office of Judges affirmed the denial on April 4, 2013, and the Board of Review affirmed on September 26, 2013. The Supreme Court of Appeals affirmed the Board's decision by memorandum decision.

DISPOSITION

affirmed

CASES CITED

- Bradford v. Workers' Compensation Comm'r, Syl. Pt. 3, 185 W. Va. 434, 408 S.E.2d 13 (1991)

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