

SUPREME COURT OF APPEALS OF WEST VIRGINIA

George Fatula III v. McElroy Coal Company

No. No. 12-1385, Supreme Court of Appeals of West Virginia (June 11, 2014)

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Workers’ Compensation Board of Review decision denying the addition of cervical disc displacement and brachial neuritis or radiculitis as compensable diagnoses and denying authorization for cervical discectomy surgery. The court concluded that the claimant had not presented sufficient medical evidence linking the additional diagnoses and proposed surgery to the compensable mining injury.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Allen H. Loughry II; Justice Margaret L. Workman; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	June 11, 2014
DOCKET	No. 12-1385
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's order affirming the Workers' Compensation Office of Judges' order, which affirmed the claims administrator's denial of additional compensable diagnoses and authorization for cervical spine surgery.
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PRECEDENTIAL VALUE	Nonprecedential memorandum decision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	George Fatula III v. McElroy Coal Company

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

employment law

PRACTICE AREAS

workers compensation

employment law

administrative law

QUESTIONS PRESENTED

1. Whether the evidence supported adding cervical disc displacement and brachial neuritis or radiculitis as compensable components of the workers' compensation claim.
2. Whether the evidence supported authorization for anterior cervical discectomy with fusion and plating.
3. Whether the Board of Review's decision was constitutionally or statutorily erroneous, based on erroneous conclusions of law, or based on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The claimant failed to provide sufficient medical evidence establishing that the additional diagnoses were caused by the compensable injury; therefore, the diagnoses were properly excluded from the claim.
2. Authorization for the requested cervical surgery was properly denied because the claimant did not provide sufficient medical evidence explaining how the compensable injury caused the need for surgery.
3. 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

“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.” (at 2)

FACTUAL BACKGROUND

On May 1, 2010, a rock fell from the ceiling of a mine and struck George Fatula III in the head while he was working as a coal miner for McElroy Coal Company. The workers' compensation claim recognized neck sprain and contusion of the face, scalp, and neck, but the claims administrator denied adding cervical disc displacement and brachial neuritis or radiculitis. An MRI showed advanced multilevel cervical disc disease and canal stenosis but no herniated discs, and the medical evidence did not adequately explain how the compensable injury caused the claimed diagnoses or the need for anterior cervical discectomy with fusion and plating.

PROCEDURAL HISTORY

The claims administrator accepted neck sprain and contusion of the face, scalp, and neck, but denied adding cervical disc displacement and brachial neuritis or radiculitis as compensable components and denied authorization for anterior cervical discectomy with fusion and plating. The Workers' Compensation Office of

Judges affirmed and modified the claims administrator's decision, finding insufficient medical evidence. The Board of Review affirmed on October 22, 2012, and the Supreme Court of Appeals affirmed the Board's order.

DISPOSITION

affirmed

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