

SUPREME COURT OF OKLAHOMA

Upton v. City of Tulsa

2018 OK 69 (Okla. 2018) · No. 115557; companion cases 115558 and 115717 · Decided September 18, 2018

SUMMARY

The Oklahoma Supreme Court affirmed the Oklahoma Workers' Compensation Commission En Banc decision concerning Jared Upton's permanent partial disability award. The court held that the constitutional issues regarding the Administrative Workers' Compensation Act's mandatory use of the American Medical Association's latest medical guide had already been resolved in *Hill v. American Medical Response*, and affirmed on that basis.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Combs, C.J.; Winchester, J.; Darby, J.; Kauger, J.; Edmondson, J.; Gurich, V.C.J.; Reif, J.; Colbert, J.; Wyrick, J.
JURISDICTION	Oklahoma
DECIDED	September 18, 2018
DOCKET	115557; companion cases 115558 and 115717
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 rejecting a constitutional challenge to the mandatory use of the American Medical Association's Guide.
PRECEDENTIAL VALUE	published
PARTIES	Jared Upton v. City of Tulsa, The Workers' Compensation Commission

TOPICS

[workers compensation](#)[administrative law](#)[constitutional law](#)[judicial review of agency action](#)

PRACTICE AREAS

[workers compensation](#)[administrative law](#)[constitutional law](#)

QUESTIONS PRESENTED

1. Whether the provisions of the Administrative Workers' Compensation Act requiring use of the latest edition of the American Medical Association's Guide to evaluate and award permanent partial disability benefits are constitutional.

HOLDINGS

1. The provisions of the Administrative Workers' Compensation Act requiring use of the AMA Guide to evaluate and award permanent partial disability benefits are constitutional.

FACTUAL BACKGROUND

Upton sustained a compensable workplace injury after the effective date of Oklahoma's Administrative Workers' Compensation Act. The administrative law judge awarded him permanent partial disability benefits using the statutory requirement that disability be evaluated under the latest edition of the American Medical Association's Guide. Upton challenged the constitutionality of the statutory provisions mandating use of that Guide, but the administrative law judge and the Commission En Banc rejected the challenge.

PROCEDURAL HISTORY

An administrative law judge awarded Upton permanent partial disability benefits and determined that the Administrative Workers' Compensation Act's mandatory use of the latest edition of the AMA Guide was constitutional. The Oklahoma Workers' Compensation Commission En Banc affirmed, and Upton appealed to the Supreme Court of Oklahoma.

DISPOSITION

affirmed

CASES CITED

- Hill v. American Medical Response, 2018 OK 57

OPINION

COMBS, J.

UPTON v. CITY OF TULSA Skip to Main Content Accessibility Statement Help Contact Us e-payments Careers Home Courts Decisions Programs News Legal Research Court Records Quick Links OSCN Found Document:UPTON v. CITY OF TULSA Previous Case Top Of Index This Point in Index Citationize Next Case Print Only UPTON v. CITY OF TULSA2018 OK 69Case Number: 115557; Comp. w/115558; 115717Decided: 09/18/2018THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2018 OK 69, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. JARED UPTON, Petitioner, v. CITY OF TULSA and THE WORKERS' COMPENSATION COMMISSION, Respondents. MEMORANDUM OPINION COMBS, C.J.: ¶1 This is an appeal of an Order Affirming Decision of Administrative Law Judge by the Oklahoma Workers' Compensation Commission En Banc, on November 17, 2016. Petitioner suffered a compensable injury after the effective date of the Administrative Workers' Compensation Act (AWCA) (Title 85A).

The Administrative Law Judge awarded Petitioner Permanent Partial Disability (PPD). 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.

The ALJ found the use of the AMA Guide to be constitutional. The Oklahoma Workers' Compensation Commission En Banc affirmed. The dispositive issue on appeal concerns the constitutionality of the sections of the AWCA which mandate the use of the AMA Guide. 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 opinion, *Hill v. American Medical Response*, 2018 OK 57, ____P.3d____, 2018 WL 3121718.

In *Hill* this Court held the required use of the AMA Guide in the AWCA was constitutional. The Order of the Oklahoma Workers' Compensation Commission En Banc is affirmed. ¶3 Combs, C.J., Winchester and Darby, JJ., concur; ¶4 Kauger and Edmondson, JJ., concur by reason of stare decisis; ¶5 Gurich, V.C.J. and Reif, J., dissent; ¶6 Colbert and Wyrick, JJ., recused.

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