

SUPREME COURT OF WYOMING

In the Matter of the Worker's Compensation Claim of Blaine Lee Debyah v. State of Wyoming, ex rel., Department of Workforce Services, Workers' Compensation Division

Debyah, 2015 WY 94 (Wyo. 2015) · No. S-14-0277 · Decided July 17, 2015

SUMMARY

The Wyoming Supreme Court held that Blaine Lee Debyah reasonably invoked the Fifth Amendment privilege against self-incrimination in response to discovery requests concerning his post-injury work history. The hearing examiner abused his discretion by compelling discovery and dismissing the contested case without balancing Debyah’s privilege against the Workers’ Compensation Division’s alleged prejudice and considering less burdensome alternatives. The court reversed and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Fox, Justice; Burke, C.J.; Hill, J.; Kite, J.; Davis, J.; Fox, J.
JURISDICTION	Wyoming
DECIDED	July 17, 2015
DOCKET	S-14-0277
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a district court judgment affirming an administrative hearing examiner's dismissal of a contested workers' compensation case as a discovery sanction after the claimant invoked the Fifth Amendment privilege against self-incrimination.
STANDARD OF REVIEW	The court reviews the district court's decision as though it came directly from the administrative agency. Under the Wyoming Administrative Procedure Act, dismissal as a discovery sanction is reviewed for whether it was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential

PARTIES

Blaine Lee Debyah v. State of Wyoming, ex rel., Department of Workforce Services, Workers' Compensation Division

TOPICS

agency adjudication judicial review of agency action administrative law appellate procedure
civil procedure

PRACTICE AREAS

administrative law workers compensation employment law constitutional law appellate procedure

QUESTIONS PRESENTED

1. Whether Debyah properly invoked the Fifth Amendment privilege against self-incrimination in response to the Division's discovery requests.
2. Whether the hearing examiner abused his discretion by dismissing the contested case as a discovery sanction without balancing Debyah's privilege against any unfair disadvantage to the Division.

HOLDINGS

1. Debyah properly invoked the Fifth Amendment because he reasonably believed that answers to the Division's discovery requests could be used in a criminal prosecution arising from his receipt of workers' compensation benefits.
2. The hearing examiner abused his discretion by dismissing the contested case without balancing Debyah's Fifth Amendment privilege against any unfair disadvantage to the Division and without considering less burdensome alternatives.

KEY QUOTATIONS

“In other words, the hearing examiner must consider three things before he determines that dismissal is appropriate as a discovery sanction despite Mr. Debyah’s valid assertion of his privilege: (1) whether the Division has a substantial need for the information sought; (2) whether the Division has an alternative means of obtaining the information; and (3) whether there are less burdensome alternatives to dismissal that would remedy any unfair disadvantage experienced by the Division.” (¶ 20)

“The hearing examiner abused his discretion by acting arbitrarily and capriciously when he compelled Mr. Debyah to answer the discovery and then dismissed the case without engaging in the proper balancing of Mr. Debyah’s and the Division’s conflicting interests.” (¶ 21)

FACTUAL BACKGROUND

Blaine Lee Debyah suffered a back injury at work and received temporary total disability benefits before applying for permanent partial disability benefits. The Workers' Compensation Division investigated and obtained information suggesting that Debyah performed construction work after his injury without reporting it. During discovery in the contested case, the Division sought sworn information about Debyah's work history and

earnings, and Debyah invoked the Fifth Amendment because the answers could expose him to prosecution for false statements in workers' compensation applications.

PROCEDURAL HISTORY

Debyah applied for permanent partial disability benefits, and the Workers' Compensation Division denied the application. During the resulting contested case proceeding, the Division sought discovery concerning Debyah's post-injury work history. Debyah invoked the Fifth Amendment, the hearing examiner compelled discovery and dismissed the case when Debyah continued to assert the privilege, and the district court affirmed. The Wyoming Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The hearing examiner must develop additional facts as necessary, determine the weight of the relevant permanent partial disability factors, assess whether the Division was or will be unfairly disadvantaged by Debyah's privilege assertion, and balance the competing interests. Before dismissing the case, the examiner must determine whether the Division has a substantial need for the information, whether alternative means of obtaining it exist, and whether a less burdensome sanction would remedy any prejudice.

CASES CITED

- *Stevens v. State ex rel. Department of Workforce Services, Workers' Safety & Compensation Division*, 2014 WY 153, ¶ 30, 338 P.3d 921, 928 (Wyo. 2014)
- *Hirsch v. State ex rel. Wyoming Workers' Safety & Compensation Division*, 2014 WY 61, ¶ 33, 323 P.3d 1107, 1115 (Wyo. 2014)
- *Global Shipping & Trading, Ltd. v. Verkhnesaldincky Metallurgic Co.*, 892 P.2d 143, 145-46 (Wyo. 1995)
- *State ex rel. Wyoming Workers' Compensation Division v. Waggener*, 946 P.2d 808, 813 (Wyo. 1997)
- *Kastigar v. United States*, 406 U.S. 441, 444-45 (1972)
- *Davis v. Fendler*, 650 F.2d 1154, 1159 (9th Cir. 1981)
- *Baker v. Limber*, 647 F.2d 912, 916-17 (9th Cir. 1981)
- *Hoffman v. United States*, 341 U.S. 479, 486-87 (1951)
- *Serafino v. Hasbro, Inc.*, 82 F.3d 515, 518-19 (1st Cir. 1996)
- *Wehling v. Columbia Broadcasting System*, 608 F.2d 1084, 1087 & n.6 (5th Cir. 1979)
- *Lyons v. Johnson*, 415 F.2d 540, 542 (9th Cir. 1969)
- *Mount Vernon Savings & Loan Association v. Partridge Associates*, 679 F. Supp. 522, 529 (D. Md. 1987)
- *Stop & Shop Cos. v. Interstate Cigar Co.*, 110 F.R.D. 105, 108 (D. Mass. 1986)
- *Jones v. B.C. Christopher & Co.*, 466 F. Supp. 213, 227 (D. Kan. 1979)
- *Penn Communications Specialties, Inc. v. Hess*, 65 F.R.D. 510, 512 (E.D. Pa. 1975)

- Wansong v. Wansong, 478 N.E.2d 1270, 1272-73 (Mass. 1985)
- Spevack v. Klein, 385 U.S. 511, 514 (1967)
- Bonsell v. State ex rel. Wyoming Workers' Safety & Compensation Division, 2006 WY 114, ¶ 12, 142 P.3d 686, 689 (Wyo. 2006)
- Gifford v. Casper Neon Sign Co., Inc., 618 P.2d 547, 551 (Wyo. 1980)
- Wood v. Wood, 865 P.2d 616, 617 (Wyo. 1993)
- McCarty v. Bear Creek Uranium Co., 694 P.2d 93, 95 (Wyo. 1985)
- Black Panther Party v. Smith, 661 F.2d 1243, 1272 (D.C. Cir. 1981)
- Steiner v. Minnesota Life Insurance Co., 85 P.3d 135, 141 (Colo. 2004)

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