

SUPREME COURT OF NORTH CAROLINA

Wilkes v. City of Greenville

369 N.C. 730 (2017) · No. No. 368PA15 · Decided June 9, 2017

SUMMARY

The Supreme Court of North Carolina considered a workers' compensation dispute involving an employee's tinnitus, anxiety, depression, and entitlement to disability benefits after a work-related motor vehicle accident. The court held that an employee whose injury has been accepted as compensable is entitled to a rebuttable presumption that additional medical treatment is causally related to the compensable injury. The court also concluded that the Industrial Commission failed to address the effect of tinnitus on the employee's wage-earning capacity and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Hudson, Justice
JURISDICTION	North Carolina
DECIDED	June 9, 2017
DOCKET	No. 368PA15
DISPOSITION	remanded
PROCEDURAL POSTURE	The Supreme Court of North Carolina granted discretionary review of a unanimous Court of Appeals decision reviewing an opinion and award of the North Carolina Industrial Commission in a workers' compensation proceeding.
STANDARD OF REVIEW	On discretionary review from the Court of Appeals, the Supreme Court reviews for errors of law. Review of an Industrial Commission order is limited to whether competent evidence supports the findings of fact and whether the findings support the conclusions of law; an award must be set aside and remanded when the Commission acts under a misapprehension of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	City of Greenville v. Johnnie Wilkes

TOPICS

workers compensation

employment law

statutory interpretation

administrative law

PRACTICE AREAS

workers' compensation

employment law

administrative law

statutory interpretation

QUESTIONS PRESENTED

1. Whether an employee whose employer has admitted compensability under a Form 60 is entitled to a rebuttable presumption that additional medical treatment is causally related to the compensable injury.
2. What legal framework governs proof of disability and whether the employee must provide expert testimony or prove that a job search would be futile.
3. Whether the Industrial Commission adequately determined Wilkes's wage-earning capacity by considering his compensable tinnitus together with his preexisting and coexisting conditions.

HOLDINGS

1. When an employer admits compensability under a Form 60 and makes payments under the Workers' Compensation Act, the employee is entitled to a rebuttable presumption that additional medical treatment is causally related to the compensable injury.
2. Disability under the Workers' Compensation Act concerns incapacity to earn wages, not merely physical infirmity. The methods described in Russell are neither statutory nor exhaustive, and an employee is not required to provide expert testimony or prove that a job search would be futile in every case.
3. The Commission must make specific findings addressing the effect of Wilkes's compensable tinnitus on his wage-earning capacity in the context of his preexisting and coexisting conditions.

KEY QUOTATIONS

"We hold that plaintiff here is entitled to a presumption that additional medical treatment is related to his compensable conditions." (-15-)

"Accordingly, we conclude that an admission of compensability approved under N.C.G.S. § 97-82(b) entitles an employee to a presumption that additional medical treatment is causally related to his compensable injury." (-16-)

"AFFIRMED IN PART; MODIFIED AND AFFIRMED IN PART, AND REMANDED." (-28-)

FACTUAL BACKGROUND

Johnnie Wilkes, a landscaper for the City of Greenville, was injured in an April 21, 2010 motor-vehicle collision that occurred while he was working. The City filed a Form 60 accepting the claim as compensable and paid temporary total disability and medical compensation. Wilkes later sought treatment for tinnitus, anxiety, and depression, but the Industrial Commission applied no presumption of causal relation to his additional treatment and also failed to address how his compensable tinnitus affected his wage-earning capacity.

PROCEDURAL HISTORY

The Industrial Commission found that Wilkes's tinnitus was causally related to his compensable workplace accident but rejected his claim that anxiety and depression were causally related and terminated temporary total disability benefits after January 18, 2011. The Court of Appeals vacated and remanded on the medical-treatment issue, applying the Parsons presumption, and reversed on disability. The Supreme Court affirmed the medical-treatment ruling, modified and affirmed the disability ruling, and remanded for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Industrial Commission must reevaluate the request for additional medical treatment by applying the rebuttable presumption that treatment is related to the compensable injury and determine whether the presumption is rebutted. The Commission must also take additional evidence if necessary and make specific findings addressing the effect of compensable tinnitus on Wilkes's wage-earning capacity, considering all preexisting and coexisting conditions. The Supreme Court remanded to the Court of Appeals for further remand to the Commission.

CASES CITED

- Deese v. Champion Int'l Corp., 352 N.C. 109, 530 S.E.2d 549 (2000)
- Ballenger v. ITT Grinnell Indus. Piping, Inc., 320 N.C. 155, 357 S.E.2d 683 (1987)
- Irving v. Charlotte-Mecklenburg Bd. of Educ., 368 N.C. 609, 781 S.E.2d 282 (2016)
- Hollman v. City of Raleigh, 273 N.C. 240, 159 S.E.2d 874 (1968)
- Weaver v. Swedish Imports Maint., Inc., 319 N.C. 243, 354 S.E.2d 477 (1987)
- Barber v. Minges, 223 N.C. 213, 25 S.E.2d 837 (1943)
- Deese v. Se. Lawn & Tree Expert Co., 306 N.C. 275, 293 S.E.2d 140 (1982)
- Biddix v. Rex Mills, Inc., 237 N.C. 660, 75 S.E.2d 777 (1953)
- Gallimore v. Marilyn's Shoes, 292 N.C. 399, 233 S.E.2d 529 (1977)
- Mehaffey v. Burger King, 367 N.C. 120, 749 S.E.2d 252 (2013)
- Little v. Penn Ventilator Co., 317 N.C. 206, 345 S.E.2d 204 (1986)
- Parsons v. Pantry, Inc., 126 N.C. App. 540, 485 S.E.2d 867 (1997)
- Pittman v. Thomas & Howard, 122 N.C. App. 124, 468 S.E.2d 283 (1996)
- Perez v. American Airlines/AMR Corp., 174 N.C. App. 128, 620 S.E.2d 288 (2005)
- Reinninger v. Prestige Fabricators, Inc., 136 N.C. App. 255, 523 S.E.2d 720 (1999)
- Watkins v. Cent. Motor Lines, Inc., 279 N.C. 132, 181 S.E.2d 588 (1971)
- Clark v. Wal-Mart, 360 N.C. 41, 619 S.E.2d 491 (2005)
- Johnson v. S. Tire Sales & Serv., 358 N.C. 701, 599 S.E.2d 508 (2004)
- Kanipe v. Lane Upholstery, 141 N.C. App. 620, 540 S.E.2d 785 (2000)
- Medlin v. Weaver Cooke Construction, LLC, 367 N.C. 414, 760 S.E.2d 732 (2014)

- Hendrix v. Linn-Corriher Corp., 317 N.C. 179, 345 S.E.2d 374 (1986)
- Fleming v. K-Mart Corp., 312 N.C. 538, 324 S.E.2d 214 (1985)
- Russell v. Lowes Product Distribution, 108 N.C. App. 762, 425 S.E.2d 454 (1993)
- Little v. Anson County Sch. Food Serv., 295 N.C. 527, 246 S.E.2d 743 (1978)
- Guest v. Brenner Iron & Metal Co., 241 N.C. 448, 85 S.E.2d 596 (1955)
- Singleton v. Durham Laundry Co., 213 N.C. 32, 195 S.E. 34 (1938)
- Burwell v. Winn-Dixie Raleigh, Inc., 114 N.C. App. 69, 441 S.E.2d 145 (1994)
- Singleton v. D.T. Vance Mica Co., 235 N.C. 315, 69 S.E.2d 707 (1952)
- Peoples v. Cone Mills Corp., 316 N.C. 426, 342 S.E.2d 798 (1986)

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