

SUPREME COURT OF COLORADO

City of Littleton v. Industrial Claim Appeals Office

370 P.3d 157 (Colo. 2016) · Decided May 2, 2016

SUMMARY

The Colorado Supreme Court considered whether a statutory presumption under Colorado’s firefighter statute established that a firefighter’s brain cancer was job-related for workers’ compensation purposes. The court held that the presumption shifts the burden of persuasion to the employer or insurer, which may rebut it by showing the absence of general or specific causation by a preponderance of the medical evidence. The court reversed the court of appeals and remanded for reinstatement of the administrative law judge’s original findings and order.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Marquez
JURISDICTION	Colorado
DECIDED	May 2, 2016
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City of Littleton and its insurer petitioned for certiorari review of a court of appeals decision affirming the Industrial Claim Appeals Office's rejection of the ALJ's denial of workers' compensation benefits for a firefighter's brain cancer.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Causation is a question of fact for the ALJ, and the ALJ's factual findings must be upheld when supported by substantial evidence or plausible inferences from the record; the appellate court must defer to the ALJ's credibility determinations and resolution of conflicting medical evidence.
PRECEDENTIAL VALUE	precedential
PARTIES	City of Littleton, Cannon Cochran Management Services, Inc. v. Industrial Claim Appeals Office, Julie Christ, Michelle Parris, on behalf of Lauren Parris

TOPICS

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statutory interpretation

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Colorado's firefighter-cancer statute creates a conclusive presumption that a qualifying firefighter's listed cancer resulted from employment.
2. Whether an employer may rebut the statutory presumption by proving the absence of general causation, specific causation, or both, through a preponderance of the medical evidence.
3. Whether the court of appeals improperly evaluated the medical evidence and failed to defer to the ALJ's supported factual findings.

HOLDINGS

1. Section 8-41-209(2) creates a substantive rebuttable presumption that relieves a qualifying firefighter of proving that a listed cancer resulted from employment, but it does not conclusively presume that firefighting causes the listed cancers or that employment caused the particular claimant's cancer.
2. An employer may satisfy section 8-41-209(2)(b) by proving by a preponderance of the medical evidence either that known or typical occupational exposures are not capable of causing the type of cancer at issue, or that the particular employment did not cause the claimant's cancer.
3. The ALJ's finding that Littleton rebutted the presumption was supported by substantial evidence, and the court of appeals erred by reweighing the medical evidence and failing to defer to the ALJ.

KEY QUOTATIONS

"We hold that the presumption in section 8-41-209(2) relieves a qualifying claimant firefighter of the burden to prove that his cancer "result[ed] from his employment as a firefighter" for purposes of establishing his claim to workers' compensation benefits." (370 P.3d at 165)

"Instead, section 8-41-209(2) creates a substantive, "Morgan"-type presumption that shifts the burden of persuasion to the employer regarding the job-relatedness of the firefighter's condition or health impairment." (370 P.3d at 168)

"Thus, to meet its burden under section 8-41-209(2)(b), the employer or insurer must show that it is "more probable than not" that the firefighter's condition or impairment "did not occur on the job." (370 P.3d at 169)

FACTUAL BACKGROUND

Jeffrey Christ worked for the Littleton Fire Rescue from 1987 and served as a battalion chief for more than ten years. He responded to fires and hazardous-substance incidents and was diagnosed with glioblastoma multiforme in December 2007. His preemployment examination did not reveal the condition, and his widow and child pursued workers' compensation benefits under Colorado's firefighter-cancer statute. Medical experts disagreed about whether substances associated with firefighting could cause Christ's brain cancer, but the ALJ credited Littleton's experts and found that the cancer was not caused by Christ's occupational exposures.

PROCEDURAL HISTORY

An ALJ initially applied the firefighter-cancer presumption but found that Littleton proved by a preponderance of the medical evidence that Jeffrey Christ's glioblastoma was not caused by his occupational exposures. The Industrial Claim Appeals Office reversed and remanded, and later affirmed an award of benefits. The court of appeals affirmed the Panel in a divided decision. The Colorado Supreme Court granted certiorari, reversed the court of appeals, and remanded for reinstatement of the ALJ's original findings, conclusions, and order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the court of appeals with directions to return the matter to the Industrial Claim Appeals Office Panel for reinstatement of the ALJ's original findings of fact, conclusions of law, and order.

CASES CITED

- Hickerson v. Vessels, 2014 CO 2, 316 P.3d 620 (Colo. 2014)
- Concerned Parents of Pueblo, Inc. v. Gilmore, 47 P.3d 311 (Colo. 2002)
- Wolford v. Pinnacol Assurance, 107 P.3d 947 (Colo. 2005)
- Smith v. Exec. Custom Homes, Inc., 230 P.3d 1186 (Colo. 2010)
- Anderson v. Brinkhoff, 859 P.2d 819 (Colo. 1993)
- City of Boulder v. Streeb, 706 P.2d 786 (Colo. 1985)
- Krueger v. Ary, 205 P.3d 1150 (Colo. 2009)
- Mile High Cab, Inc. v. Colo. Pub. Utils. Comm'n, 2013 CO 26, 302 P.3d 241 (Colo. 2013)
- Page v. Clark, 197 Colo. 306, 592 P.2d 792 (Colo. 1979)
- In re Winship, 397 U.S. 358 (1970)
- Univ. Park Care Ctr. v. Indus. Claim Appeals Office, 43 P.3d 637 (Colo. App. 2001)
- Rockwell Int'l v. Turnbull, 802 P.2d 1182 (Colo. App. 1990)
- Davison v. Indus. Claim Appeals Office, 84 P.3d 1023 (Colo. 2004)
- City of Loveland Police Dep't v. Indus. Claim Appeals Office, 141 P.3d 943 (Colo. App. 2006)
- Benuishis v. Indus. Claim Appeals Office, 195 P.3d 1142 (Colo. App. 2008)
- Norris v. Baxter Healthcare Corp., 397 F.3d 878 (10th Cir. 2005)
- City of Frederick v. Shankle, 785 A.2d 749 (Md. 2001)
- Linnell v. City of St. Louis Park, 305 N.W.2d 599 (Minn. 1981)
- Robertson v. N.D. Workers Comp. Bureau, 616 N.W.2d 844 (N.D. 2000)
- Sperbeck v. Dep't of Indus., Labor & Human Relations, 174 N.W.2d 546 (Wis. 1970)

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