

SUPREME COURT OF APPEALS OF WEST VIRGINIA

PPG Industries, Inc. v. Douglas L. Steele

No. 21-0231 (BOR Appeal No. 2055711) (Claim No. 2019002683) · No. No. 21-0231 (BOR Appeal No. 2055711) (Claim No. 2019002683) · Decided February 10, 2023

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed decisions holding that Douglas L. Steele’s chronic lymphocytic leukemia was compensable as an occupational disease caused by benzene exposure during his employment with PPG Industries. The court concluded that substantial evidence supported the finding of significant occupational exposure and a causal connection between that exposure and Steele’s condition. The court issued the opinion as a memorandum decision under Rule 21 of the West Virginia Rules of Appellate Procedure.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton; Justice C. Haley Bunn
JURISDICTION	West Virginia
DECIDED	February 10, 2023
DOCKET	No. 21-0231 (BOR Appeal No. 2055711) (Claim No. 2019002683)
DISPOSITION	affirmed
PROCEDURAL POSTURE	PPG Industries appealed the West Virginia Workers’ Compensation Board of Review’s order affirming the Office of Judges’ determination that Douglas L. Steele’s chronic lymphocytic leukemia claim was compensable as an occupational disease caused by benzene exposure.
STANDARD OF REVIEW	Under W. Va. Code § 23-5-15(c), the court gives deference to the Board of Review’s findings, reasoning, and conclusions. When the Board reverses a prior ruling on the same issue in the same claim, reversal or modification is permitted only for a clear violation of constitutional or statutory provisions, clearly erroneous conclusions of law, or a decision clearly wrong on the evidentiary record; the court may not conduct a de novo reweighing of the evidence. Questions of law are reviewed de novo.

PRECEDENTIAL VALUE	Published memorandum decision; precedential status identified as published in the supplied metadata.
PARTIES	PPG Industries, Inc. v. Douglas L. Steele

TOPICS

workers compensation administrative law judicial review of agency action appellate procedure
standard of review

PRACTICE AREAS

workers compensation employment law administrative law

QUESTIONS PRESENTED

1. Whether substantial evidence supported compensability of Steele’s chronic lymphocytic leukemia as an occupational disease caused by occupational benzene exposure.
2. Whether the Board of Review’s affirmance of the Office of Judges’ compensability determination was clearly wrong, legally erroneous, or otherwise subject to reversal under W. Va. Code § 23-5-15.

HOLDINGS

1. Steele presented sufficient evidence under W. Va. Code § 23-4-1 to establish that his chronic lymphocytic leukemia was caused by significant occupational exposure to benzene. The Board of Review’s decision affirming compensability was supported by the record and was not clearly wrong or legally erroneous.
2. The court reviews questions of law arising from Board of Review decisions de novo but defers to the Board’s factual findings, reasoning, and conclusions and does not reweigh the evidence de novo.

KEY QUOTATIONS

“Mr. Steele presented sufficient evidence that he had significant exposure to benzene throughout his thirty-five years of employment for PPG and that such exposure resulted in the development of CLL.” (7)

FACTUAL BACKGROUND

Douglas L. Steele worked for PPG Industries from 1968 until 2006 in positions involving substantial exposure to benzene and benzene-containing products. He reported daily exposure to benzene fumes and repeated dermal exposure when benzene and cleaning chemicals splashed on or soaked through his clothing and gloves. Steele was diagnosed with chronic lymphocytic leukemia in 2016. Medical experts disagreed about whether his occupational benzene exposure caused the disease, with Drs. Mehta and Infante supporting causation and Dr. Martin disputing it.

PROCEDURAL HISTORY

The claims administrator rejected Steele's claim on December 11, 2018. The Office of Judges reversed on September 11, 2020, and held the claim compensable for chronic lymphocytic leukemia. The Board of Review affirmed on February 19, 2021. The Supreme Court of Appeals of West Virginia affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Hammons v. W. Va. Off. of Ins. Comm'r, 235 W. Va. 577, 582-83, 775 S.E.2d 458, 463-64 (2015)
- Justice v. West Virginia Office Insurance Commission, 230 W. Va. 80, 83, 736 S.E.2d 80, 83 (2012)
- Davies v. W. Va. Off. of Ins. Comm'r, 227 W. Va. 330, 334, 708 S.E.2d 524, 528 (2011)

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