

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Ralph Mayle v. Community Progress Committee, Inc.

No. 12-0142 (BOR Appeal No. 2046243) (Claim No. 2008027694) · No. No. 12-0142 (BOR Appeal No. 2046243) (Claim No. 2008027694) · Decided November 1, 2013

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the Board of Review’s decision denying Ralph Mayle’s request to reopen his workers’ compensation claim for temporary total disability benefits. The Court concluded that the evidence did not establish entitlement to reopening and indicated that Mayle was working in some capacity.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Brent D. Benjamin; Justice Robin J. Davis; Justice Allen H. Loughry II; Justice Margaret L. Workman; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	November 1, 2013
DOCKET	No. 12-0142 (BOR Appeal No. 2046243) (Claim No. 2008027694)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's final order affirming the Office of Judges' order, which affirmed the claims administrator's denial of a request to reopen the claim for temporary total disability benefits.
STANDARD OF REVIEW	The court reviewed whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based upon a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Ralph Mayle, claimant below and petitioner v. Community Progress Committee, Inc., employer below and respondent

TOPICS

workers compensation

appellate procedure

administrative law

judicial review of agency action

standard of review

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of Mayle's request to reopen his workers' compensation claim for temporary total disability benefits.
2. Whether the evidence established that Mayle's current condition was related to the compensable January 16, 2008 injury and that he was entitled to temporary total disability benefits.

HOLDINGS

1. Mayle failed to establish by a preponderance of the evidence that he was entitled to reopen the claim for temporary total disability benefits.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly the result of erroneous conclusions of law, and was not based upon a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"We agree with the reasoning and conclusions of the Board of Review." (at 2)

"Therefore, the decision of the Board of Review is affirmed." (at 2)

FACTUAL BACKGROUND

Mayle was injured at work on January 16, 2008, while employed by Community Progress Committee, Inc., and his claim was held compensable for unspecified myalgia/myositis. After leaving his job, he apparently had no ongoing treatment for the compensable injury. He applied to reopen the claim for temporary total disability benefits, but the evidence, including medical records and the absence of documented treatment, did not establish a progression or aggravation of the compensable injury or that he was unable to work; the Office of Judges found evidence that he continued working in some capacity.

PROCEDURAL HISTORY

The claims administrator denied Mayle's June 28, 2010, application to reopen his workers' compensation claim for temporary total disability benefits on July 29, 2010. The Workers' Compensation Office of Judges affirmed that decision on July 25, 2011, and the Board of Review affirmed on January 5, 2012. The Supreme Court of Appeals of West Virginia affirmed the Board's order by memorandum decision.

DISPOSITION

affirmed

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