

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Murray American Energy, Inc. v. Ernest Payne

No. 15-0887 (W. Va. Mar. 30, 2017) · No. No. 15-0887 (BOR Appeal No. 2050339) (Claim No. 2014028868) ·
Decided March 30, 2017

SUMMARY

The West Virginia Supreme Court of Appeals reviewed a workers' compensation dispute concerning whether additional back conditions, including spinal stenosis aggravation, were compensable components of Ernest Payne's claim. The court held that the Board of Review's decision rested on an erroneous conclusion of law under *Gill v. City of Charleston* and remanded the case to the Office of Judges for further consideration and evidentiary development.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Allen H. Loughry II; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	March 30, 2017
DOCKET	No. 15-0887 (BOR Appeal No. 2050339) (Claim No. 2014028868)
DISPOSITION	remanded
PROCEDURAL POSTURE	Murray American Energy, Inc. appealed the West Virginia Workers' Compensation Board of Review's order affirming the Office of Judges' decision to deny the addition of several back conditions as compensable diagnoses while finding aggravation of spinal stenosis compensable.
STANDARD OF REVIEW	The Court reviewed the Board of Review's decision for an erroneous conclusion of law.
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that it is a memorandum decision under West Virginia Rule of Appellate Procedure 21(d).
PARTIES	Murray American Energy, Inc. v. Ernest Payne

TOPICS

workers compensation

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appellate procedure

standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Board of Review erred as a matter of law by affirming a decision that treated aggravation of a noncompensable preexisting spinal stenosis as a compensable component of the claim.
2. Whether the claim should be remanded for reconsideration under *Gill v. City of Charleston*, which was decided after the Office of Judges issued its decision.

HOLDINGS

1. The Board of Review's decision was based upon an erroneous conclusion of law because it affirmed the addition of aggravation of preexisting, noncompensable spinal stenosis as a compensable component without applying the rule announced in *Gill v. City of Charleston*.
2. The claim must be remanded to the Office of Judges for further consideration and additional development of the evidentiary record in light of *Gill*.

KEY QUOTATIONS

“A noncompensable preexisting injury may not be added as a compensable component of a claim for workers’ compensation medical benefits merely because it may have been aggravated by a compensable injury. To the extent that the aggravation of a noncompensable preexisting injury results in a discreet new injury, that new injury may be found compensable.” (at 3)

FACTUAL BACKGROUND

Ernest Payne injured his lower back on March 25, 2014, when he slipped on a step while transporting supplies during his employment as a mechanic. His claim was held compensable for a lumbar sprain, but imaging later showed preexisting degenerative lumbar conditions, including spinal stenosis. Medical reviewers disputed whether radiculopathy, spinal stenosis, and other back disorders were causally related to the work injury, while the Office of Judges found that the injury aggravated preexisting spinal stenosis.

PROCEDURAL HISTORY

The claims administrator denied the request to add unspecified back sprain, thoracic or lumbosacral neuritis or radiculitis, lumbar spinal stenosis with neurological claudication, and other unspecified back disorders as compensable components of Payne's claim. The Office of Judges affirmed the denial but modified the decision to recognize aggravation of spinal stenosis as compensable, and the Board of Review affirmed. The Supreme Court of Appeals of West Virginia held that the Board's decision rested on an erroneous conclusion of law because the Office of Judges' decision preceded *Gill v. City of Charleston*, and remanded for reconsideration and further evidentiary development.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the Office of Judges for further consideration and additional development of the evidentiary record in light of *Gill v. City of Charleston*.

CASES CITED

- *Gill v. City of Charleston*, 236 W. Va. 737, 783 S.E.2d 857 (2016)

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