

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Brian A. Collins v. Alpha Natural Resources, Inc.

Collins v. Alpha Natural Resources · No. No. 19-0425 (BOR Appeal No. 2053721; Claim No. 20160054411) ·
Decided September 15, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Board of Review’s decision denying Brian A. Collins additional temporary total disability benefits arising from a compensable left ankle injury. The court concluded that the medical evidence showed Collins had been released to work and had reached maximum medical improvement, and that his management work in a self-owned business constituted a return to work despite his not drawing a salary.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Tim Armstead; Justice Margaret L. Workman; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	September 15, 2020
DOCKET	No. 19-0425 (BOR Appeal No. 2053721; Claim No. 20160054411)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s order affirming the Office of Judges’ affirmance of claims-administrator orders closing his claim for temporary total disability benefits.
STANDARD OF REVIEW	The court reviews whether the Board of Review’s decision clearly violated a constitutional or statutory provision, was clearly the result of erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	unpublished memorandum decision
PARTIES	Brian A. Collins v. Alpha Natural Resources, Inc.

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

PRACTICE AREAS

workers compensation

employment law

administrative law

QUESTIONS PRESENTED

1. Whether Collins was entitled to additional temporary total disability benefits.
2. Whether the Board of Review's decision affirming closure or denial of temporary total disability benefits violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or relied on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. Collins was not entitled to additional temporary total disability benefits because the evidence showed that he had returned to work in a management capacity and had been released to work and found to have reached maximum medical improvement.
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 on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"The fact that he chose not to draw a salary from his company for a period does not negate the fact that he did return to work and would therefore not be entitled to additional temporary total disability benefits under West Virginia Code § 23-4-7(a)(e)(4)." (4)

"For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record." (4)

FACTUAL BACKGROUND

Brian A. Collins injured his left ankle while working as a mine foreman for Alpha Natural Resources, Inc. His compensable injury involved a left-ankle ligament sprain, and he later underwent surgery to repair a partial-thickness peroneus longus tendon tear and address lateral ankle instability. Medical evidence showed that he was released to return to work, reached maximum medical improvement, and could perform work within the medium physical-demand category matching his former job's demands. Collins did not return to his former mining job but began and continuously operated a timber business, performing management and administrative duties even though he did not draw a salary.

PROCEDURAL HISTORY

Collins sustained a left ankle injury while working as a mine foreman and was awarded compensability for a left-ankle ligament sprain. The claims administrator denied or closed requests for temporary total disability benefits for specified periods. The Office of Judges affirmed the relevant orders, and the Board of Review

affirmed the Office of Judges' December 7, 2018, decision. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

DISPOSITION

affirmed

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