

SUPREME COURT OF KENTUCKY

Mosen Khani v. Alliance Chiropractic

Mosen Khani v. Alliance Chiropractic · No. 2014-SC-000220-WC · Decided March 30, 2015

SUMMARY

The Kentucky Supreme Court affirmed the denial of Mosen Khani's workers' compensation claim. The Court held that Khani's testimony described personal perceptions and symptoms rather than expert opinions, so the administrative law judge did not err in treating him as a lay witness. The Court also held that substantial evidence supported the finding that Khani had not suffered a work-related injury and therefore was not entitled to temporary benefits.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Keller
JURISDICTION	Kentucky
DECIDED	March 30, 2015
DOCKET	2014-SC-000220-WC
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Kentucky Court of Appeals' affirmance of a Workers' Compensation Board decision affirming an Administrative Law Judge's denial and dismissal of Khani's workers' compensation claim.
STANDARD OF REVIEW	The ALJ is the fact-finder and has sole authority to determine the weight, credibility, substance, and reasonable inferences from the evidence. A claimant bears the burden of proving every element of the claim and must show on appeal that the evidence was so overwhelmingly favorable as to reasonably compel a finding in the claimant's favor.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential
PARTIES	Mosen Khani v. Alliance Chiropractic, Otto D. Wolff, Administrative Law Judge, Workers' Compensation Board

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the ALJ erred by treating Khani's testimony as lay-opinion testimony rather than expert-opinion testimony.
2. Whether substantial evidence supported the ALJ's finding that Khani did not suffer a work-related injury under the Kentucky Workers' Compensation Act.
3. Whether the ALJ was required to determine whether Khani sustained a temporary rather than permanent injury and award temporary total disability income or temporary medical benefits.

HOLDINGS

1. The ALJ did not err in treating Khani's testimony as lay-witness opinion testimony because Khani did not render opinions based on scientific, technical, or other specialized knowledge; his testimony was based on his personal perceptions of his symptoms, treatment, and limitations.
2. The ALJ's finding that Khani did not suffer a work-related injury was supported by substantial evidence and was not erroneous.
3. Because the ALJ properly found that Khani suffered no work-related injury, the ALJ was not required to determine whether the injury was temporary or permanent or to award temporary total disability income or temporary medical benefits.

KEY QUOTATIONS

"As set forth in KRE 701, the distinction between expert opinion testimony and lay opinion testimony is the basis for the testimony. If the opinion is based on the witnesses' perceptions, as Dr. Khani's was, it is lay witness opinion testimony. If the opinion is based on "scientific, technical, or other specialized knowledge," it is expert witness opinion testimony." (at 11-12)

"However, it is axiomatic that, before there can be a temporary injury, or a permanent injury for that matter, there must first be an injury." (at 15)

FACTUAL BACKGROUND

Mosen Khani, a chiropractor and owner of Alliance Chiropractic, alleged neck, upper-extremity, shoulder, low-back, lower-extremity, and dental injuries from incidents on February 28, August 22, and August 23, 2011, while treating or assisting patients. He had experienced similar symptoms and received treatment before the alleged injuries, including in 2006. Medical experts disagreed about whether the conditions were work-related, with some attributing them to preexisting conditions or natural aging and others diagnosing work-related strains and assigning impairment.

PROCEDURAL HISTORY

Khani sought workers' compensation benefits for alleged injuries arising from incidents while treating or assisting patients. The ALJ found that Khani had not suffered a work-related injury and dismissed the claim. The Workers' Compensation Board affirmed, and the Kentucky Court of Appeals affirmed the Board. The Supreme Court of Kentucky granted review and affirmed.

DISPOSITION

affirmed

CASES CITED

- Paramount Foods, Inc. v. Burkhardt, 695 S.W.2d 418, 419 (Ky. 1985)
- Caudill v. Maloney's Discount Stores, 560 S.W.2d 15, 16 (Ky. 1977)
- Gibbs v. Premier Scale Co./Indiana Scale Co., 50 S.W.3d 754, 763 (Ky. 2001)
- Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986)
- Staples, Inc. v. Konvelski, 56 S.W.3d 412, 415 (Ky. 2001)
- Caudill v. Caudill, 212 Ky. 433, 279 S.W. 656 (1925)
- Khani v. Alliance Chiropractic, No. 2013-CA-002070-WC, 2014 WL 1159795, at *3 (Ky. Ct. App. Mar. 21, 2014)

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