

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Elery D. Farley v. Panther Branch Coal Company

No. 13-0628 (BOR Appeal No. 2047957) (Claim No. 2011033810) · No. No. 13-0628 · Decided March 12, 2015

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the Board of Review’s decision denying authorization for a nerve conduction study and refusing to add cubital tunnel syndrome as a compensable condition related to the claimant’s January 7, 2011 injury. The court concluded that the claimant failed to establish a causal connection between the injury and his later elbow symptoms, and that the requested study was not medically necessary. The court issued the decision 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 Margaret L. Workman; Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	March 12, 2015
DOCKET	No. 13-0628
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s order affirming the Office of Judges’ decision that denied authorization for a nerve conduction study and denied adding cubital tunnel syndrome as a compensable condition.
STANDARD OF REVIEW	The court will affirm a Board of Review decision unless it is in clear violation of a constitutional or statutory provision, clearly results from erroneous conclusions of law, or is based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Memorandum decision; no substantial question of law and no prejudicial error identified
PARTIES	Elery D. Farley v. Panther Branch Coal Company

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of adding cubital tunnel syndrome as a compensable condition related to the January 7, 2011 injury.
2. Whether the Board of Review erred in affirming the denial of authorization for a nerve conduction study.

HOLDINGS

1. Farley failed to establish a causal connection between cubital tunnel syndrome and the January 7, 2011 compensable injury; therefore, cubital tunnel syndrome was properly excluded as a compensable condition.
2. The nerve conduction study was properly denied because it was not medically necessary or related to the compensable injury where cubital tunnel syndrome itself was not a compensable condition.
3. The Board of Review's decision must be affirmed when it is not in clear violation of a constitutional or statutory provision, does not clearly result from an erroneous conclusion of law, and is not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"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." (at 2)

"Mr. Farley has failed to establish any causal connection between the condition of cubital tunnel syndrome and the January 7, 2011, injury." (at 2)

FACTUAL BACKGROUND

Farley injured himself at work on January 7, 2011, when he fell while using a miner's cable, and the injury was accepted as compensable for a rotator cuff strain and an unspecified fall. Approximately one year later, he first reported elbow discomfort, and a physician requested that cubital tunnel syndrome be added as a compensable condition and that a nerve conduction study be authorized. Independent medical reviewers concluded that any cubital tunnel syndrome was not causally related to the 2011 injury, and the court relied on the absence of an explanation connecting the delayed symptoms to that injury.

PROCEDURAL HISTORY

The claims administrator held Farley's January 7, 2011 injury compensable for a rotator cuff strain and an unspecified fall, but denied his later requests concerning cubital tunnel syndrome and a nerve conduction study. The Workers' Compensation Office of Judges affirmed the claims administrator, and the Board of Review

adopted those findings and affirmed. The Supreme Court of Appeals reviewed the Board's final order and affirmed.

DISPOSITION

affirmed

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