

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Murray American Energy, Inc. v. Clark Gump

Murray American Energy · No. No. 18-0165 (BOR Appeal No. 2052109) (Claim No. 2016021536) · Decided
May 29, 2018

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Board of Review decision in a workers' compensation claim arising from a lower-back injury. The court upheld recognition of acute left peroneal nerve neuropathy as a compensable condition, authorization for evaluation and treatment, and payment of temporary total disability benefits. The court issued the opinion 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 Menis E. Ketchum; Justice Allen H. Loughry II; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	May 29, 2018
DOCKET	No. 18-0165 (BOR Appeal No. 2052109) (Claim No. 2016021536)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Murray American Energy, Inc. appealed the West Virginia Workers' Compensation Board of Review's affirmance of an Office of Judges order that added acute peroneal nerve neuropathy as a compensable condition, awarded temporary total disability benefits, and authorized evaluation and treatment with Dr. Hargraves.
STANDARD OF REVIEW	The Court reviewed whether the Board of Review's decision violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Murray American Energy, Inc. v. Clark Gump

TOPICS

workers compensation

appellate procedure

standard of review

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judicial review of agency action

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether acute peroneal nerve neuropathy or palsy was a compensable component of Gump's workers' compensation claim.
2. Whether evaluation and treatment with Dr. Hargraves should be authorized as medically necessary treatment for the compensable condition.
3. Whether Gump was entitled to temporary total disability benefits after the claims administrator suspended and closed those benefits.

HOLDINGS

1. The Board of Review did not err in affirming the addition of acute peroneal nerve neuropathy as a compensable component of the claim.
2. Authorization for evaluation and treatment with Dr. Hargraves was compensable because it was medically necessary and reasonably related to the compensable peroneal nerve condition.
3. The Board of Review did not err in affirming the award of temporary total disability benefits from the date of suspension through December 21, 2016, and continuing as substantiated by the evidence.

KEY QUOTATIONS

"The Court finds no substantial question of law and no prejudicial error." (1)

"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." (6)

FACTUAL BACKGROUND

Clark Gump injured his lower back while carrying a two-hundred-pound beam at work on February 23, 2016. His claim was accepted for a lower-back strain, but he later developed symptoms involving the left peroneal nerve and underwent an EMG that suggested acute and chronic peroneal nerve changes. Although he had a substantial history of lumbar problems and degenerative changes, his treating physician related the peroneal nerve condition to the work injury and stated that he could not work. The claims administrator denied the additional condition, treatment authorization, and continued temporary total disability benefits.

PROCEDURAL HISTORY

The claims administrator accepted a lower-back strain but denied compensability of left peroneal nerve conditions, denied authorization for treatment with Dr. Hargraves, and closed temporary total disability benefits.

The Office of Judges affirmed one denial but reversed the other decisions, adding acute peroneal neuropathy, ordering treatment authorization, and awarding temporary total disability benefits. The Board of Review affirmed, and the Supreme Court of Appeals affirmed the Board's decision.

DISPOSITION

affirmed

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