

SUPREME COURT OF OHIO

State ex rel. Paneto v. Matos

129 Ohio St. 3d 1, 2011-Ohio-2857 (2011) · No. 2009-1869 · Decided June 16, 2011

SUMMARY

The Ohio Supreme Court affirmed the denial of Luiz A. Paneto’s request for scheduled-loss compensation for an alleged total loss of use of his left leg. The court held that his permanent-total-disability award, which was later terminated for fraud, did not constitute a new or changed circumstance warranting reconsideration, and that medical evidence supported the finding that he retained some use of the leg.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; Pfeifer; Lundberg Stratton; O'Donnell; Lanzinger; Cupp; McGee Brown
JURISDICTION	Ohio
DECIDED	June 16, 2011
DOCKET	2009-1869
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal as of right from a judgment of the Franklin County Court of Appeals denying Paneto's complaint for a writ of mandamus and upholding the Industrial Commission's denial of scheduled-loss compensation.
STANDARD OF REVIEW	In a mandamus action challenging an Industrial Commission decision, the court reviews whether the commission abused its discretion by entering an order unsupported by some evidence.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Ohio.
PARTIES	Luiz A. Paneto v. Industrial Commission of Ohio

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Paneto's award of permanent-total-disability compensation constituted a new or changed circumstance permitting the Industrial Commission to reopen its final denial of scheduled-loss compensation under R.C. 4123.57(B).
2. Whether the Industrial Commission abused its discretion by denying scheduled-loss compensation after finding that Paneto retained some use of his left leg.

HOLDINGS

1. Paneto's permanent-total-disability award did not constitute a new or changed circumstance sufficient to permit reopening of the previously denied scheduled-loss claim, particularly because the award had been terminated.
2. The Industrial Commission did not abuse its discretion in denying scheduled-loss compensation because medical evidence supported its finding that Paneto retained some use of his left leg.

KEY QUOTATIONS

"The PTD award has been terminated." (129 Ohio St. 3d at 2)

"The commission cited medical evidence that supports that conclusion, which negates the need for any further discussion." (129 Ohio St. 3d at 2)

FACTUAL BACKGROUND

Paneto injured his left foot and ankle in a workplace fall and continued to walk with a cane and a moderately severe limp after surgery. The Industrial Commission determined that he had not sustained a total loss of use of his left leg and denied scheduled-loss compensation. Although Paneto later received permanent-total-disability compensation, that award was terminated after the commission found that he had been working full time and had fraudulently concealed his employment and income.

PROCEDURAL HISTORY

The Industrial Commission denied Paneto's application for scheduled-loss compensation under R.C. 4123.57(B), concluding that he had not suffered a total loss of use of his left leg. After Paneto later received permanent-total-disability compensation and reapplied, the commission again denied relief, finding the issue res judicata and independently finding that he still had some use of the leg. The Franklin County Court of Appeals denied his mandamus complaint, and the Supreme Court of Ohio affirmed. During the appeal, the commission terminated Paneto's permanent-total-disability award based on his full-time employment and fraud.

DISPOSITION

affirmed

