

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2013-CA-001495-WC

DONALD S. HULETTE

APPELLANT

v. PETITION FOR REVIEW OF A DECISION  
OF THE WORKERS' COMPENSATION BOARD  
ACTION NO. WC-08-01231

TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC.;  
HON. CHRIS DAVIS, ADMINISTRATIVE LAW JUDGE;  
AND WORKERS' COMPENSATION BOARD

APPELLEES

OPINION  
AFFIRMING

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BEFORE: ACREE, CHIEF JUDGE; MAZE AND STUMBO, JUDGES.

STUMBO, JUDGE: Donald Hulette appeals from an opinion of the Workers' Compensation Board (hereinafter referred to as Board). The Board affirmed an order of Administrative Law Judge (ALJ) Chris Davis which found that

Appellant's injuries were not work-related. We find there was substantial evidence presented to the ALJ that Appellant's injuries were not work-related and affirm.

Appellant began working for Toyota in 1995. While working for Toyota, Appellant has worked in several different positions requiring him to lift, twist, bend, kneel, stand, and crouch. Appellant brought two claims before the ALJ, a left knee injury and a lower back injury.

As to the knee injury, Appellant alleged it occurred on February 28, 2008. Appellant was lying on the ground in the break area during lunch.<sup>1</sup> He hurriedly jumped up and when he did so he felt immediate pain in his left leg and his knee locked. He could not bend his knee. Toyota has its own health services located on site and medical assistance was contacted. A medical team arrived and moved Appellant from the floor. This caused his knee to unlock. The team transported him to the medical assistance area where the doctor manipulated the knee. This caused it to lock again. In the days following this occurrence, Appellant's knee would lock up and cause severe pain. Appellant had multiple surgeries on his knee. Appellant's knee no longer locks up, but he still has weakness, stiffness, and pain.

Appellant's second injury occurred on July 23, 2007.<sup>2</sup> On this day, his previous back symptoms began to grow worse. He first treated with Toyota Medical, but has seen a number of doctors over the years. Appellant has had at

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<sup>1</sup> Appellant was lying on the ground to help alleviate his back pain.

<sup>2</sup> This was the date Appellant put on his workers' compensation injury form; however, Appellant is actually alleging his back injury is a cumulative injury.

least three surgeries on his back to alleviate pain, but he still experiences pain.

Currently, Appellant's primary doctor for his back is a pain management specialist.

A number of people testified during, were deposed for, or produced medical records for the hearing before ALJ Davis: Appellant; Dr. Gregory D'Angelo, one of the doctors Appellant treated with for his knee injury; Toyota's health services; Dr. Philip Corbett, who conducted an independent medical examination and opined that his knee injury was not work-related, but due to a degenerative disease; Dr. Warren Bilkey, who conducted an independent medical examination and opined that prior degenerative back and knee conditions were made worse by work injuries; Dr. Timothy Kriss, who conducted an independent medical examination and stated Appellant's back pain was not due to cumulative trauma, was due to the aging process, and was not work-related; and Dr. Raymond Shea who had been seeing Appellant since January of 2009, opined that Appellant had reached maximum medical improvement (MMI) in September of 2012, and assigned him a 20% impairment rating.

ALJ Davis found that the medical records from Appellant's treating physicians did not say whether his conditions were work-related or not. The only evidence of work-relatedness came from the three independent medical reviewers. As to the knee injury, ALJ Davis specifically stated that he chose to rely on the evidence submitted by Dr. Corbett that the knee injury was due to degenerative disease and not work-related. As to the lower back injury, ALJ Davis chose to rely on the opinion of Dr. Kriss that the back injury was due to the ageing process and

not work-related. ALJ Davis also specifically stated that Appellant was not an entirely credible witness. The Board affirmed the opinion of the ALJ finding that there was substantial evidence to support his conclusion. This appeal followed.

This Court's standard of review for an administrative adjudicatory decision is the clearly erroneous standard. *Stallins v. City of Madisonville*, 707 S.W.2d 349, 351 (Ky. App. 1986). A decision is clearly erroneous if it is not supported by substantial evidence. *Id.*

Substantial evidence is defined as evidence, taken alone or in light of all the evidence, that has sufficient probative value to induce conviction in the minds of reasonable people. If there is substantial evidence to support the agency's findings, a court must defer to that finding even though there is evidence to the contrary. A court may not substitute its opinion as to the credibility of the witnesses, the weight given the evidence, or the inferences to be drawn from the evidence. A court's

function in administrative matters is one of review, not reinterpretation.

*Thompson v. Kentucky Unemployment Ins. Comm'n*, 85 S.W.3d 621, 624 (Ky. App. 2002).

As indicated by this authority, the rule is: The claimant bears the burden of proof and risk of persuasion before the board. If he succeeds in his burden and an adverse party appeals to the circuit court, the question before the court is whether the decision of the board is supported by substantial evidence. On the other hand, if the claimant is unsuccessful before the board, and he himself appeals to the circuit court, the question before the court is whether the evidence was so overwhelming, upon consideration of the entire record, as to have compelled a finding in his favor.

*Wolf Creek Collieries v. Crum*, 673 S.W.2d 735, 736 (Ky. App. 1984). In the case at hand, three doctors provided independent medical reviews of Appellant's condition. Two were of the opinion that his injuries were not work-related and one believed they were. ALJ Davis gave the opinions of Drs. Corbett and Kriss more weight than the opinion of Dr. Bilkey. ALJ Davis also believed Appellant was not a credible witness. The evidence presented was not so overwhelming as to compel a different result.

For the foregoing reasons we affirm the decision of the Board.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ched Jennings  
Louisville, Kentucky

BRIEF FOR APPELLEE TOYOTA  
MOTOR MANUFACTURING,  
KENTUCKY, INC.:

Kenneth J. Dietz  
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