

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.**
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

FEB 15 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

JOHNNIE E. ROBINSON III,)
)
Petitioner Employee,)
)
v.)
)
THE INDUSTRIAL COMMISSION OF)
ARIZONA,)
)
Respondent,)
)
YOUTH DEVELOPMENT INSTITUTE,)
)
Respondent Employer,)
)
SCF WESTERN INSURANCE)
COMPANY/SCF ARIZONA,)
)
Respondent Insurers.)
_____)

2 CA-IC 2012-0008
DEPARTMENT A

MEMORANDUM DECISION
Not for Publication
Rule 28, Rules of Civil
Appellate Procedure

SPECIAL ACTION – INDUSTRIAL COMMISSION

ICA Claim Nos. 20102300209 and 20111240369

Insurer Nos. 11W00721 and 1007531

Anthony Halas, Administrative Law Judge

AWARD AFFIRMED

Johnnie E. Robinson

Casa Grande
In Propria Persona

The Industrial Commission of Arizona
By Andrew F. Wade

Phoenix
Attorney for Respondent

SCF Western and SCF Arizona
By James B. Stabler and Sharon M. Hensley

Phoenix
Attorneys for Respondents
Employer and Insurers

E C K E R S T R O M, Presiding Judge.

¶1 In this statutory special action, petitioner employee Johnnie Robinson challenges the decision of the administrative law judge (ALJ) that denied him compensation for his most recent lower back problems. We affirm for the reasons that follow.

Factual and Procedural Background

¶2 “On review, we consider the evidence in the light most favorable to upholding the award, and we deferentially review all factual findings made by the ALJ.” *Hackworth v. Indus. Comm’n*, 229 Ariz. 339, ¶ 2, 275 P.3d 638, 640 (App. 2012) (citation omitted). Robinson was employed as a youth care worker in a residential youth rehabilitation facility operated by the respondent employer. In August 2010, he sustained a work-related injury when he was struck in the lower back by a doorknob from a door that was swung open, then punched and kicked by a client. Robinson received treatment for lower back pain and returned to his normal work duties about two months later, without any permanent impairment. In April 2011, he suffered another work-related

injury when a client tripped him on a basketball court and caused Robinson to fall on his right hand, fracturing his middle finger. He did not return to work thereafter.

¶3 Although Robinson received prompt and ongoing treatment for his finger injury, he did not seek treatment for any new back problems until July 2011, after he had been involved in a motor-vehicle accident. His treating osteopathic physician, Dr. Brent Gear, opined that Robinson's most recent lower back problems were caused by his fall in April 2011, assuming the accuracy of Robinson's report about experiencing back pain around that time.

¶4 The orthopedic surgeon who performed an independent medical examination in this case, Dr. Terry McLean, reached a different conclusion. McLean noted that the medical records suggested Robinson did not report any new back pain prior to the vehicular accident. McLean also noted that Robinson's symptoms appeared to be exaggerated and were not correlated with objective medical findings. McLean therefore concluded Robinson's subjective complaints of lower back pain were unrelated to his fall in April 2011.

¶5 Both doctors testified at a consolidated hearing that addressed Robinson's petition to reopen his 2010 claim as well as his challenges to the termination of active care and the permanent disability award for his 2011 claim. After the hearing, the ALJ credited the contemporaneous medical records over Robinson's own testimony that he had experienced and reported back pain soon after the April 2011 injury. The ALJ therefore resolved the conflict in the medical evidence by accepting the opinion of Dr. McLean as "more probably correct and well-founded." The ALJ consequently upheld the

respondent insurer's termination of active care and compensation, finding Robinson had failed to establish his back condition was related to his industrial injury in April 2011. The ALJ further determined there was an insufficient evidentiary basis to reopen the industrial injury claim that had been closed in October 2010, because Robinson had presented no medical evidence relating his current condition or symptoms to that earlier injury.

¶6 The ALJ affirmed the decision after Robinson filed a request for administrative review. We have jurisdiction to review the ALJ's rulings pursuant to A.R.S. §§ 12-120.21(A)(2) and 23-951, as well as Rule 10, Ariz. R. P. Spec. Actions.

Discussion

¶7 On review, Robinson has not presented this court with clear issues or arguments that are supported by relevant legal authority, as required by Rule 13(a)(5) and (6), Ariz. R. Civ. App. P., and Rule 10(k), Ariz. R. P. Spec. Actions. He claims, for example, that "the Industrial Commission overlooked the safety of a worker" under A.R.S. § 23-801 and that the ALJ apparently disregarded his "determination and work ethic." To the extent such contentions are relevant to the ALJ's findings, they are waived due to Robinson's failure to develop and support them meaningfully in accordance with our procedural rules. *See Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007).

¶8 We construe the remainder of Robinson's brief as a challenge to the ALJ's determination that his back condition was not caused by his work-related fall in April 2011. "To prove compensability, the claimant must establish all the elements of his

claim,” including that he has “suffered an injury and that the injury was causally related to his employment.” *W. Bonded Prods. v. Indus. Comm’n*, 132 Ariz. 526, 527, 647 P.2d 657, 658 (App. 1982). “The burden is on the claimant . . . to show by a preponderance of the evidence al[l] the elements of his claim, and the carrier does not have to disprove it.” *Lawler v. Indus. Comm’n*, 24 Ariz. App. 282, 284, 537 P.2d 1340, 1342 (1975). The ALJ resolves any conflict in medical testimony. *Stainless Specialty Mfg. Co. v. Indus. Comm’n*, 144 Ariz. 12, 19, 695 P.2d 261, 268 (1985). We will not disturb the ALJ’s resolution “unless it is wholly unreasonable.” *Id.*

¶9 Here, the ALJ heard conflicting medical testimony about whether Robinson’s fall in 2011 was the medical cause of his latest back pain. The ALJ resolved the conflict in the medical evidence based upon a reasonable view of the record. It is the ALJ’s role, not ours, to “resolve all conflicts in the evidence, especially when the conflicts involve expert medical testimony.” *Post v. Indus. Comm’n*, 160 Ariz. 4, 8, 770 P.2d 308, 312 (1988).

Disposition

¶10 For the foregoing reasons, the award is affirmed.

/s/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Judge*

*A retired judge of the Arizona Court of Appeals authorized and assigned to sit as a judge on the Court of Appeals, Division Two, pursuant to Arizona Supreme Court Order filed December 12, 2012.