

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-000401-WC

HARRY HAYES D/B/A ASTRO, INC.

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-96-07687

DAVID VOTAW; ROBERT L. WHITTAKER,
DIRECTOR OF THE SPECIAL FUND;
THE HONORABLE ROGER D. RIGGS,
ADMINISTRATIVE LAW JUDGE; AND
WORKERS' COMPENSATION BOARD

APPELLEES

OPINION
AFFIRMING

** ** * * * ** **

BEFORE: DYCHE, KNOFF, AND McANULTY, JUDGES.

DYCHE, JUDGE. There are two issues presented in this appeal:
(1) whether there is substantial evidence to support the finding
that David Votaw's injury to his right shoulder was caused by an
accident at work; and (2) whether there is substantial evidence
to support the finding that Votaw is permanently disabled as a
result of that injury.

Our review in this case is governed by Western Baptist
Hospital v. Kelly, Ky., 827 S.W.2d 685 (1992), wherein we are

instructed to correct the Workers' Compensation Board ("Board") "only where the Court perceives the Board has overlooked or misconstrued controlling statutes or precedent, or committed an error in assessing the evidence so flagrant as to cause gross injustice." Id. at 687-8.

We have examined the record as a whole and can find no such error. Although the evidence in this case is far from the most artfully presented, we, as did the ALJ and the Board, find sufficient grounds to establish the work-related injury to Votaw's shoulder, and that the disability therefrom is permanent and total. The evidence of the claimant, along with the testimony of Dr. Salem George and Dr. Zach Stearns, is sufficient to support the findings of the ALJ. We find no error. The opinion of the Workers' Compensation Board is affirmed.

McANULTY, JUDGE, CONCURS.

KNOFF, JUDGE, CONCURS IN RESULT.

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