

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-001056-WC

BILLY NAPIER

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-02-00835

MOUNTAIN COALS CORPORATION;
HON. J. LANDON OVERFIELD,
ADMINISTRATIVE LAW JUDGE; AND
WORKERS' COMPENSATION BOARD

APPELLEES

AND

NO. 2003-CA-001057-WC

PEARL NAPIER

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-02-00922

CONSOL OF KENTUCKY, INC. ;
HON. J. LANDON OVERFIELD,
ADMINISTRATIVE LAW JUDGE; AND
WORKERS' COMPENSATION BOARD

APPELLEES

OPINION

AFFIRMING

** ** * * * * *

BEFORE: McANULTY AND SCHRODER, JUDGES; AND HUDDLESTON, SENIOR JUDGE.¹

SCHRODER, JUDGE. By order of the Chief Judge, these two cases were consolidated on June 30, 2003. Both employees are represented by the same attorney who requested identical relief in both cumulative trauma claims. The Court is asked specifically to revisit the cases of Randall Co. v. Pendland, Ky. App., 770 S.W.2d 687 (1989); Alcan Foil Products v. Huff, Ky., 2 S.W.3d 96 (1999); and Special Fund v. Clark, Ky., 998 S.W.2d 487 (1999). The appellants contend these cases give judicial interpretations of the workers' compensation statutes that prevent cumulative trauma claimants from being fully compensated for such injuries when the statutes' intentions and literal wording clearly provide benefits to workers who have suffered such injuries.

Two of the three cases are not this Court's, and we could not overrule the Supreme Court's precedent if we wanted to. Appellants' attorney realized this and only filed the two-page brief (plus attachments) in order to follow the procedural steps to the Supreme Court. Our function (the Court of Appeals) in reviewing a decision of the Workers' Compensation Board is to correct the Board only where the Court perceives the Board has

¹ Senior Judge Huddleston sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

overlooked or misconstrued statutes, precedent, or has flagrantly erred in assessing the evidence so as to cause a gross injustice. Western Baptist Hospital v. Kelly, Ky., 827 S.W.2d 685 (1992). We were asked to find no such errors and therefore affirm the decision of the Workers' Compensation Board, leaving the appellants to their next step.

ALL CONCUR.

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