

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

CHRISTINA WOLFGANG, Petitioner

November 2, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 101140 (BOR Appeal No. 2044316)
(Claim No. 2010116179)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
SOFTEC SOLUTIONS, INC., Respondent

MEMORANDUM DECISION

This appeal arises from the West Virginia Workers' Compensation Board of Review Final Order dated September 2, 2010, in which the Board affirmed a March 18, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's denial of compensability for carpal tunnel syndrome. The appeal was timely filed by the petitioner and a response was filed by Softec Solutions, Inc. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. Having considered the petition, response, and the relevant decision of the lower tribunal, the Court is of the opinion that the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the Court determines that there is no prejudicial error. This case does not present a new or significant question of law. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

Ms. Wolfgang asserts her carpal tunnel syndrome is work-related and compensable. In support, Ms. Wolfgang presented the written report of Dr. Ryu Jaiyoung opining the carpal tunnel syndrome is work-related. Softec Solutions asserts Ms. Wolfgang's medical evidence does not establish a causal connection between the carpal tunnel syndrome and Ms. Wolfgang's work activities.

In its Order denying compensability the Office of Judges found Ms. Wolfgang's carpal tunnel syndrome is not work-related. It further noted there are no nerve conduction studies of record and Ms. Wolfgang's medical evidence fails to establish a causal connection between the carpal tunnel syndrome and her work activities. (March 18, 2010, Office of Judges Order, p. 5). It further held that studies have failed to establish a causal relationship between normal clerical activities and carpal tunnel syndrome. *Id.* Additionally, it held Ms. Wolfgang's testimony related to her symptoms and work activities was insufficient to establish the carpal tunnel syndrome is work-related. *Id.* The Office of Judges, too, found no basis for compensability for carpal tunnel syndrome or for disputing the Claims Administrator's findings. The Board of Review reached the same reasonable conclusion in affirming the Office of Judges in its decision of September 2, 2010.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of constitutional or statutory provision, clearly the result of erroneous conclusions of law, or is based upon the Board's material misstatement or mischaracterization of particular components of the evidentiary record. Therefore, the denial of compensability for carpal tunnel syndrome is affirmed.

Affirmed.

ISSUED: November 2, 2011

CONCURRED IN BY:

Chief Justice Margaret L. Workman

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Thomas E. McHugh