

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

**HOWARD JUNIOR WORKMAN,
Claimant Below, Petitioner**

FILED
July 19, 2013
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 11-1476 (BOR Appeal No. 2010129185)
(Claim No. 2045782)

**UNITED COAL COMPANY, LLC,
Employer Below, Respondent**

MEMORANDUM DECISION

Petitioner Howard Junior Workman, by Cathy L. Greiner, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. United Coal Company, LLC, by Bradley A. Crouser, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated September 20, 2011, in which the Board affirmed a March 25, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's May 7, 2010, order. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

Mr. Workman was working as a coal mine foreman for United Coal Company, LLC when he was diagnosed with bilateral carpal tunnel syndrome on November 4, 2009. Mr. Workman and Dr. Patel completed the workers' compensation claim application for benefits to treat the carpal tunnel syndrome. On May 5, 2010, the claims administrator denied the claim. Mr. Workman appealed.

The Office of Judges found Mr. Workman's evidence insufficient to establish that he developed bilateral carpal tunnel syndrome in the course of and as a result of his employment. The Office of Judges noted that although Mr. Workman had been diagnosed with carpal tunnel syndrome it had not been causally related to his employment.

In his report of December 20, 2009, Dr. Vaught indicated that Mr. Workman had symptoms of neck and arm pain radiating into his shoulder, and left hand numbness. Dr. Vaught concluded that Mr. Workman's EMG showed C6 radiculopathy on the left and bilateral carpal tunnel syndrome. Dr. Patel, in his January 15, 2010, report, indicated that Mr. Workman had pain in his back and neck due to degenerative disc disease and hand problems due to carpal tunnel syndrome. In his March 15, 2010, report, Dr. Patel diagnosed Mr. Workman with cervical degenerative disc disease, a cervical herniated disc at C5-6, left carpal tunnel syndrome and left C6 radiculopathy. On December 22, 2010, Dr. Mukkamala diagnosed Mr. Workman with borderline bilateral carpal tunnel syndrome and concluded that it was not due to his work.

The Office of Judges noted that Mr. Workman's testimony did not support his contention that he developed bilateral carpal tunnel syndrome in the course of his employment. Mr. Workman indicated that he only occasionally positioned his wrists in an awkward manner; only occasionally used vibratory tools; and only occasionally used his upper extremities in a repetitive way.

The Board of Review came to the same reasoned conclusion that Mr. Workman's evidence is insufficient to establish that he developed bilateral carpal tunnel syndrome in the course of and as a result of his employment. We agree with the Board of Review.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record. Therefore, the decision of the Board of Review is affirmed.

Affirmed.

ISSUED: July 19, 2013

CONCURRED IN BY:

Chief Justice Brent D. Benjamin
Justice Robin J. Davis
Justice Margaret L. Workman
Justice Menis E. Ketchum
Justice Allen H. Loughry II