

**STATE OF WEST VIRGINIA**  
**SUPREME COURT OF APPEALS**

**PAULA J. TAYLOR,**  
**Claimant Below, Petitioner**

**FILED**  
September 12, 2013  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

vs.) **No. 11-1725** (BOR Appeal No. 2046085)  
(Claim No. 2010135299)

**DAVIS & ELKINS COLLEGE,**  
**Employer Below, Respondent**

**MEMORANDUM DECISION**

Petitioner Paula J. Taylor, by Robert Stultz, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Davis & Elkins College, by Lynn Photiadis, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated November 22, 2011, in which the Board affirmed a June 17, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's July 22, 2010, decision rejecting Ms. Taylor's application for workers' compensation benefits. 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.

Ms. Taylor was working as the circulation manager for Davis & Elkins College when she alleges that she mis-stepped and injured her right knee on May 12, 2010. Ms. Taylor was seen by Heather Reesman, PA-C, at Dr. Pavlovich's office on May 17, 2010. In the treatment note from that day, Ms. Reesman noted that Ms. Taylor had a twisting injury two weeks prior, and found that she had a knee sprain with osteoarthritis flare. The claims administrator rejected Ms. Taylor's application for workers' compensation benefits on July 22, 2010.

In affirming the claims administrator's decision, the Office of Judges held that the preponderance of the evidence did not establish that Ms. Taylor sustained an injury to her right

knee in the course of and as a result of her employment with Davis & Elkins College. Ms. Taylor disagrees and asserts that the records from Dr. Pavlovich's office establish that she suffered an injury in the course of and resulting from her employment.

The Office of Judges concluded that the evidence did not establish that Ms. Taylor's condition is the result of her employment. It noted that there were several versions of the alleged incident, but neither version demonstrated that an occupational injury occurred. Thus, the Office of Judges concluded that Ms. Taylor did not suffer an injury in the course of and as a result of her employment. The Board of Review reached the same reasoned conclusions in its decision of November 22, 2011. We agree with the reasoning and conclusions of 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: September 12, 2013**

**CONCURRED IN BY:**

Chief Justice Brent D. Benjamin

Justice Robin J. Davis

Justice Allen H. Loughry II

**DISSENTING:**

Justice Margaret L. Workman

Justice Menis E. Ketchum