

**STATE OF WEST VIRGINIA**

**SUPREME COURT OF APPEALS**

**BROOKE COUNTY BOARD OF EDUCATION,  
Employer Below, Petitioner**

**FILED**  
October 14, 2015  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

vs.) **No. 15-0054** (BOR Appeal No. 2049409)  
(Claim No. 2012037814)

**JERRI L. WHITE,  
Claimant Below, Respondent**

**MEMORANDUM DECISION**

Petitioner Brooke County Board of Education, by Matthew L. Williams, its attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Jerri L. White, by Jonathan C. Bowman, her attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated December 23, 2014, in which the Board affirmed an April 7, 2014, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges reversed the claims administrator's October 24, 2012, decision rejecting Ms. White's application for workers' compensation benefits. The Office of Judges held the claim compensable for bilateral carpal tunnel syndrome. 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 that the Board of Review's decision is based upon a material misstatement or mischaracterization of the evidentiary record. This case satisfies the "limited circumstances" requirement of Rule 21(d) of the Rules of Appellate Procedure and is appropriate for a memorandum decision rather than an opinion.

Ms. White worked as a cook for the Brooke County Board of Education for approximately seventeen years. She worked in the main kitchen for the Brooke County High School and helped prepare almost two thousand meals per day. Her job consisted of handling and preparing raw food as well as the use of heavy kitchen equipment. She frequently was required to carry heavy pans of food. She also periodically cut up vegetables and meat to the proper size

using handheld knives. In May of 2012, Ms. White sought treatment from her family physician, Patsy Paul Cipoletti, M.D., for tingling sensations in both hands. She also complained of numbness in both hands that would frequently wake her up during the night. Dr. Cipoletti scheduled her for an electromyography (EMG) for both upper extremities. He also recommended that she lose weight to better control her glucose intolerance. Two weeks later, an EMG was performed on both of Ms. White's hands which showed that she had severe bilateral carpal tunnel syndrome. Following this diagnosis, Ms. White returned to Dr. Cipoletti's office with a workers' compensation benefits application and requested that Dr. Cipoletti fill out the physician's portion of the form. In the application, Dr. Cipoletti checked the box indicating that Ms. White's bilateral carpal tunnel syndrome was an occupational injury. Ms. White submitted the completed application to the claims administrator.

Prasadarao B. Mukkamala, M.D., then reviewed Ms. White's application and records. He found that she had severe bilateral carpal tunnel syndrome but did not believe the condition was causally related to her employment. He reviewed a description of Ms. White's job duties provided to him by Brooke County Board of Education and found that her occupation did not involve the type of repetition or force expected to cause carpal tunnel syndrome. He did not believe her occupation posed a risk of developing carpal tunnel syndrome. He also found that Ms. White was overweight, which was a significant non-occupational risk factor that could have contributed to the development of her condition. On October 24, 2012, the claims administrator denied Ms. White's application for workers' compensation benefits based on Dr. Mukkamala's report. Ms. White also received treatment from Marjorie L. Bush, M.D., a hand surgeon, who confirmed the diagnosis of severe bilateral carpal tunnel syndrome. Because Ms. White did not want to have surgery at the time of her examination, Dr. Bush gave her a steroid injection.

Ms. White then testified by deposition. She stated that her job required her to lift heavy pans of food and to push food carts. She also testified that she frequently had to stir large pots of sauce for spaghetti if that meal was on the school menu. She denied having hypothyroidism, diabetes, rheumatoid arthritis, or any other significant health condition. ChaunFang Jin, M.D., then evaluated Ms. White. She found that Ms. White had severe bilateral carpal tunnel syndrome but could not find any evidence that her employment as a cook put her at a high risk for developing carpal tunnel syndrome. Dr. Jin noted that her job duties did not involve high force or repetitive movements of the wrist. Dr. Jin believed that the heavy lifting involved in Ms. White's job would not increase the risk of developing the condition because it did not involve repetitive wrist movements. Dr. Jin believed that Ms. White suffered from idiopathic carpal tunnel syndrome, particularly considering that her excess weight put her at risk for developing the condition. On April 7, 2014, the Office of Judges reversed the claims administrator's decision and held the claim compensable for bilateral carpal tunnel syndrome. The Board of Review affirmed the Order of the Office of Judges on December 23, 2014, leading the Brooke County Board of Education to appeal.

The Office of Judges concluded that Ms. White developed bilateral carpal tunnel syndrome in the course of and resulting from her employment, and it held her claim compensable for the condition. The Office of Judges found that Ms. White provided a credible account of the etiology of her condition and that the Brooke County Board of Education did not provide

sufficient evidence to refute her claim. The Office of Judges considered the opinions of Dr. Mukkamala and Dr. Jin but dismissed their reports because both physicians concluded that the condition was idiopathic in nature. The Office of Judges found that this opinion lacked evidentiary weight compared to Ms. White's account of her condition. The Office of Judges also justified disregarding their opinions because it found that Ms. White's obesity should not preclude her from receiving workers' compensation benefits for the condition. The Board of Review adopted the findings of the Office of Judges and affirmed its Order.

The Board of Review's decision is based on a material misstatement and mischaracterization of the evidence. Ms. White has not presented sufficient evidence demonstrating that her carpal tunnel syndrome was developed in the course of and resulting from her employment, and the Office of Judges' Order holding the claim compensable was clearly wrong in view of the reliable, probative, and substantial evidence on the whole record. The EMG clearly shows that Ms. White has severe bilateral carpal tunnel syndrome, but there is no medical evidence in the record causally relating the diagnosis to her employment for the Brooke County Board of Education. Even Ms. White's treating physicians, Dr. Cipoletti and Dr. Bush, did not relate the condition to her employment. The Office of Judges based its Order on Ms. White's deposition testimony. Our jurisprudence is clear that "[m]edical evidence is not required in every compensation case," but there are some types of disability where "such evidence is required to establish the necessary causal connection." *Deverick v. State Comp. Dir.*, 150 W. Va. 145, 149-50, 144 S.E.2d 498, 501 (1965). In this case, Ms. White's deposition testimony is insufficient to establish the causal connection between her carpal tunnel syndrome and her work duties because she has not alleged that her job duties include the type of high force and high repetitive manual movements that have been shown to contribute to carpal tunnel syndrome. West Virginia Code of State Rules § 85-20-41.5 (2006). Ms. White has denied that she used any vibratory tools that would place a strain on her wrists. The Office of Judges' finding that Ms. White's job duties required repetitive manual movements is not reflected in the record. Because the evidence in the record has not shown that Ms. White's job included the type of "[a]wkward wrist position, vibratory tools, significant grip force, and high force of repetitive manual movements" that have been shown to contribute to carpal tunnel syndrome, the Office of Judges did not have sufficient evidence to hold the claim compensable especially considering that there is no medical evidence supporting a causal link between Ms. White's carpal tunnel syndrome and her employment. The Office of Judges' rationale for disregarding Dr. Mukkamala's and Dr. Jin's opinions was also inconsistent with the diagnostic guidelines for carpal tunnel syndrome provided under West Virginia Code of State Rules § 85-20-41.2, which notes that half of carpal tunnel syndrome cases are idiopathic.

For the foregoing reasons, we find that the decision of the Board of Review is based upon a material misstatement or mischaracterization of the evidentiary record. Therefore, the decision of the Board of Review is reversed and remanded with instructions to reinstate the claims administrator's October 24, 2012, decision denying Ms. White's application for workers' compensation benefits.

Reversed and Remanded.

**ISSUED: October 14, 2015**

**CONCURRED IN BY:**

Justice Brent D. Benjamin  
Justice Menis E. Ketchum  
Justice Allen H. Loughry II

**DISSENTING:**

Chief Justice Margaret L. Workman  
Justice Robin J. Davis