

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

DARRELL WALLS, JR.,
Claimant Below, Petitioner

vs.) No. 100974 (BOR Appeal No. 2043851)
(Claim No. 2009092279)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER,
Commissioner Below, Respondent

and

FRONTIER COAL COMPANY,
Employer Below, Respondent

FILED
July 29, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

This appeal arises from the West Virginia Workers' Compensation Board of Review Final Order dated June 30, 2010, in which the Board reversed a November 25, 2009, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges reversed the claims administrator's June 25, 2009 Order, which denied Mr. Walls's application for benefits. The appeal was timely filed by the petitioner, and Frontier Coal Company filed a response. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Pursuant to Revised Rule 1(d), this matter should be, and hereby is, set for consideration under the Revised Rules of Appellate Procedure. Having considered the parties' submissions 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.

The Board of Review reversed the Office of Judge's Order, which held Mr. Walls's claim compensable. Mr. Walls, who was injured while loading his personal four-wheeler

onto a coworker's truck after work, argues that his injury occurred within the "zone of employment" and that his claim should be held compensable.

The "zone of employment must have some proximate relation to the plant equipment of the employer, as distinguished from property and premises of the employer, which have no direct relation to the work in which the employee is engaged." *Carper v. Workmen's Comp. Comm'r*, 121 W. Va. 1, 1 S.E.2d 156, 167 (1939). In reversing the Office of Judges, the Board of Review found that Mr. Walls's injury did not result from his employment. (June 30, 2010 Board of Review Order, p.2.) The Board of Review noted that Mr. Walls's accident is "completely unrelated" to his employment as a beltman in an underground coal mine. *Id.* The Board of Review concluded that the injury did not arise from his employment and that Mr. Walls's activities were not within the zone of employment; therefore, the Board of Review denied Mr. Walls's claim for benefits. *Id.*

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 so clearly wrong based upon the evidentiary record that even when all inferences are resolved in favor of the board's findings, reasoning, and conclusions, there is insufficient support to sustain the decision. Therefore, the denial of petitioner's request for benefits is affirmed.

Affirmed.

ISSUED: July 29, 2011

CONCURRED IN BY:

Justice Robin Jean Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Thomas E. McHugh

DISSENTING:

Chief Justice Margaret Workman