

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

JOHNNY D. ORRAS,
Claimant Below, Petitioner

vs.) No. 100991 (BOR Appeal No. 2044209)
(Claim No. 2003040183)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER,
Commissioner Below, Respondent

and

NELL JEAN INDUSTRIES, INC.,
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 July 22, 2010, in which the Board affirmed a February 25, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's May 20, 2009 Order, which denied authorization for a cervical steroid injection and the medications Neurontin and Motrin. The appeal was timely filed by the petitioner, and the West Virginia Office of Insurance Commissioner 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 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 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 affirmed the Office of Judge's Order, which denied

authorization for a cervical steroid injection and the medications Neurontin and Motrin. Mr. Orras argues that his treating physician, Dr. Sai P. Gutti, has attested to the necessity and reasonableness of the requested treatment and medications. Mr. Orras submits that, as his treating physician, Dr. Gutti is in the best position to determine the treatment he needs.

The Office of Judges noted first that three separate physicians have found that Mr. Orras has reached maximum degree of medical improvement with respect to his compensable injury. (Feb. 25, 2010 Office of Judges Order, p. 3.) One of these physicians, Dr. Ramanathan Padmanaban, noted that Mr. Orras has made little improvement following his treatment, which included the requested injections. *Id.* at p. 4. Another physician, Dr. A. E. Landis, observed significant preexisting degenerative changes unrelated to his compensable injury, but that were the cause of his current symptoms. *Id.* All evaluating physicians recommended no additional treatment. Accordingly, the Office of Judges found the requested treatment and medication to be unrelated to Mr. Orras's compensable condition and affirmed the denial of the requested treatment and medication. The Board of Review reached the same reasoned conclusion in affirming the Office of Judges in its decision dated July 22, 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 based upon the Board's material misstatement or mischaracterization of particular components of the evidentiary record. Therefore, the denial of Mr. Orras's request for a cervical steroid injection and the medications Neurontin and Motrin is affirmed.

Affirmed.

ISSUED: July 29, 2011

CONCURRED IN BY:

Chief Justice Margaret Workman

Justice Robin Jean Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Thomas E. McHugh