

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

GEORGE L. MATHIS, Petitioner

November 2, 1011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 101042 (BOR Appeal No. 2044235)
(Claim No. 2009070289)

**WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
WEST VIRGINIA REGIONAL JAIL &
CORRECTIONAL FACILITY, Respondent**

MEMORANDUM DECISION

This appeal arises from the West Virginia Workers' Compensation Board of Review Final Order dated August 9, 2010, in which the Board affirmed a February 26, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's denial of compensability for carpal tunnel syndrome. The appeal was timely filed by the petitioner and a response was filed by the West Virginia Regional Jail & Correctional Facility (hereinafter "Regional Jail"). 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 petition, response, 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.

Mr. Mathis asserts his employment in clerical duties with the Regional Jail led to his development of carpal tunnel syndrome. The Regional Jail asserts Mr. Mathis suffers from several pre-disposing medical conditions pre-disposing to carpal tunnel syndrome and his clerical work duties are not considered contributing factors to carpal tunnel syndrome.

The Office of Judges considered the medical evidence presented by Mr. Mathis in determining the carpal tunnel syndrome is not work-related and not compensable. It held there is no medical evidence relating Mr. Mathis' carpal tunnel syndrome to his employment and Mr. Mathis' treating physician never causally connected the carpal tunnel to Mr. Mathis' employment. (February 26, 2010, Office of Judges Order, p. 9). It further held Petitioner's application for benefits was not part of the record, studies have failed to correlate clerical activities with carpal tunnel syndrome, and diabetes is a contributing factor to carpal tunnel syndrome. *Id.* The Office of Judges, too, found no basis for compensability or for disputing the Claims Administrator's findings. The Board of Review reached the same reasonable conclusion in affirming the Office of Judges in its decision of August 9, 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 is based upon the Board's material misstatement or mischaracterization of particular components of the evidentiary record. Therefore, the August 9, 2010 order of the Board of Review is affirmed.

Affirmed.

ISSUED: November 2, 2011

CONCURRED IN BY:

Chief Justice Margaret L. Workman

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Thomas E. McHugh