

**STATE OF WEST VIRGINIA**

**SUPREME COURT OF APPEALS**

**FILED**

**ARROW CONCRETE, Petitioner**

**May 7, 2012**  
**RORY L. PERRY II, CLERK**  
**SUPREME COURT OF APPEALS**  
**OF WEST VIRGINIA**

**vs.) No. 101595 (BOR Appeal No. 2044611)**  
**(Claim No. 200985375)**

**WEST VIRGINIA OFFICE OF**  
**INSURANCE COMMISSIONER and**  
**JAN MEREDITH, Respondent**

**MEMORANDUM DECISION**

Petitioner Arrow Concrete, by Sue Anne Howard, its attorney, appeals the West Virginia Workers' Compensation Board of Review's Order granting workers' compensation benefits. Jan Meredith, by Michael Watson, his attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated November 17, 2010, in which the Board affirmed a May 21, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges reversed the claims administrator's March 25, 2009, Order which denied compensability of the claim. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Having considered the petition 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.

In this case, Mr. Meredith was working for Arrow Concrete when he sustained a crush injury. The claims administrator denied compensability of the claim. The Office of Judges reversed the claims administrator's Order and held the claim compensable.

In affirming the Office of Judges Order, the Board of Review held that Mr. Meredith was within the zone of employment according to West Virginia statutory and case law when the injury

occurred. The Board of Review did not adopt the Office of Judges' reasoning, but ultimately concluded that the injury occurred in the course of and resulting from Mr. Meredith's employment.

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 Board of Review Order is affirmed.

Affirmed.

**ISSUED: May 7, 2012**

**CONCURRED IN BY:**

Chief Justice Menis E. Ketchum

Justice Robin J. Davis

Justice Margaret L. Workman

Justice Thomas E. McHugh

Justice Brent D. Benjamin, Not Participating