

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

April 12, 2012

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

TIMOTHY F. HUFFORD, Petitioner

**vs.) No. 10-4024 (BOR Appeal No. 2044683)
(Claim No. 2009072670)**

**WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
MARION CONSTRUCTION, Respondent**

MEMORANDUM DECISION

Petitioner Timothy F. Hufford, by John Skaggs, his attorney, appeals the decision of the Board of Review. Marion Construction, by Jonathan Cook, its attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated December 7, 2010, in which the Board affirmed a May 20, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's December 30, 2008, decision denying 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 its Order, the Office of Judges held that the claim is not compensable because Mr. Hufford did not sustain an injury in the course of and resulting from his employment. Mr. Hufford disputes this finding and asserts that the evidence of record demonstrates that the claim should be held compensable.

The Office of Judges found that Mr. Hufford's medical records indicate that he has an extensive history of treatment for genitourinary problems. The Office of Judges noted that Dr. Bailey reviewed Mr. Hufford's medical record and found that there is no causal relationship between Mr.

Hufford's diagnoses of prostatitis and lower abdominal pain and his employment. The Board of Review reached the same reasoned conclusions in its decision of December 7, 2010.

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 decision of the Board of Review is affirmed.

Affirmed.

ISSUED: April 12, 2012

CONCURRED IN BY:

Chief Justice Menis E. Ketchum

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Margaret L. Workman

Justice Thomas E. McHugh