

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

LARRY E. WRENN JR., Petitioner

December 14, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 101336 (BOR Appeal No. 2044444)
(Claim No. 2009060803)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
CLIFFS NORTH AMERICAN COAL, LLC, Respondent

MEMORANDUM DECISION

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated September 20, 2010, in which the Board affirmed an April 20, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's March 24, 2009, decision to close the claim for temporary total disability benefits based upon the opinion of Dr. Mukkamala that Mr. Wrenn was at maximum medical improvement. The appeal was timely filed by the petitioner and a response was filed by the Employer. 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 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 Mr. Wrenn was at maximum medical improvement, and that his claim for temporary total disability benefits was properly closed. Mr. Wrenn disputes this finding and asserts that he is entitled to temporary total disability benefits because he continues to suffer from a psychiatric impairment related to his compensable injury. Specifically, the Office of Judges found that Mr. Wrenn's continued

complaints of pain were caused by degenerative changes, and that while he may continue to participate in outpatient psychiatric treatment, the objective medical evidence of record indicates that he is not temporarily and totally disabled. The Board of Review reached the same reasoned conclusion in its decision of September 20, 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 decision of the Board of Review is affirmed.

Affirmed.

ISSUED: December 14, 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