

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

June 27, 2012

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

CURTIS D. SHEETS, Petitioner

**vs.) No. 11-0100 (BOR Appeal No. 2044628)
(Claim No. 2006025154)**

**WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
MARFORK COAL COMPANY, INC., Respondent**

MEMORANDUM DECISION

Petitioner Curtis D. Sheets, by Reginald D. Henry, his attorney, appeals the decision of the Board of Review. Marfork Coal Company, by Timothy E. Huffman, its attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated December 15, 2010, in which the Board modified a May 21, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges reversed the claims administrator's May 12, 2008, decision granting Mr. Sheets a 4% permanent partial disability award for bilateral carpal tunnel syndrome. 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.

Mr. Sheets is employed as a supply man with Marfork Coal Company. Mr. Sheets was diagnosed with bilateral carpal tunnel syndrome and underwent a bilateral carpal tunnel release; the claim was held compensable for bilateral carpal tunnel syndrome on July 13, 2006.

In its Order reversing the decision of the claims administrator and granting Mr. Sheets a 6% permanent partial disability award for bilateral carpal tunnel syndrome, the Office of Judges relied

heavily on the opinion of Dr. Mir. The Office of Judges' reliance on Dr. Mir's recommendation of a 6% permanent partial disability award was not misplaced. The Board of Review affirmed the Office of Judges' decision to grant Mr. Sheets a 6% permanent partial disability award for bilateral carpal tunnel syndrome, and modified the Office of Judges' Order to reflect that Mr. Sheets is entitled to a 6% permanent partial disability award based on the preponderance of the evidence standard contained in West Virginia Code § 23-4-1g (2003).

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: June 27, 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, Disqualified