

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

**HUNTINGTON ALLOYS CORPORATION,
Employer Below, Petitioner**

vs.) No. 14-0294 (BOR Appeal No. 2048855)
(Claim No. 2012037529)

**JOSEPH S. SMITH JR.,
Claimant Below, Respondent**

FILED
October 7, 2015
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Huntington Alloys Corporation, by Jillian L. Moore, its attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review.

This appeal arises from the Board of Review's Final Order dated February 24, 2014, in which the Board affirmed a September 24, 2013, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges reversed the claims administrator's August 6, 2012, decision rejecting the claim. The Office of Judges held the claim compensable for an ankle sprain, capsulitis, and tenosynovitis of the ankle and foot. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

Mr. Smith, an employee of Huntington Alloys Corporation, bent over to pick up a board on January 23, 2012, when he felt a sharp pain in his ankle and foot. Roger Cole, Mr. Smith's co-worker witnessed the incident. Mr. Smith reported the injury to his supervisor on the same day. On June 1, 2012, after suffering more pain associated with the foot and ankle, Mr. Smith visited Huntington Alloys Corporation's Clinic and received treatment from Allen Young, M.D. Dr. Young diagnosed a foot and ankle strain but could not determine why Mr. Smith had numbness in his first toe or chronic inflammation. As a result, Dr. Young referred Mr. Smith to a podiatrist.

Kevin Brown, D.P.M., diagnosed capsulitis and tenosynovitis of the ankle and foot. On April 30, 2013, Mr. Smith had an evaluation from Prasad Rao Mukkamala, M.D. Dr. Mukkamala opined that Mr. Smith's left foot symptoms were caused by lumbar radiculopathy and not the January 23, 2012, injury. Dr. Mukkamala stated that there is no credible medical evidence in the record or in his examination that would indicate Mr. Smith sustained an injury to his left foot and ankle on January 23, 2012. Dr. Mukkamala opined that the simple act of squatting would not cause an injury to the left ankle. The claims administrator denied the claim on August 6, 2012, based upon the report of Dr. Mukkamala. Mr. Smith protested.

The Office of Judges determined that Mr. Smith was injured in the course of and as a result of his employment with Huntington Alloys Corporation. The Office of Judges noted that the only piece of evidence that weighed in favor of finding Mr. Smith's injury not compensable was the report of Dr. Mukkamala. The Office of Judges found that Dr. Mukkamala's report was not persuasive. Dr. Mukkamala attributed the foot symptoms to lumbar radiculopathy. However, the Office of Judges noted that lumbar radiculopathy would not cause chronic swelling of the foot, which was present in this claim. Furthermore, the Office of Judges opined that Dr. Mukkamala completely ignored Mr. Smith's testimony and his co-worker, Mr. Coles's, statement regarding how the injury occurred. The Board of Review adopted the findings of the Office of Judges and affirmed its Order.

We agree with the findings of the Office of Judges and conclusions of the Board of Review. Mr. Smith has demonstrated that he suffered an ankle sprain, capsulitis, and tenosynovitis in the course of and as the result of his employment with Huntington Alloys Corporation. The only report that concludes otherwise is the report of Dr. Mukkamala. However, Dr. Mukkamala's report fails to explain the chronic swelling in Mr. Smith's foot and disregards the consistent testimony of Mr. Smith and his co-worker, Mr. Cole. As a result, it was not in error for the Office of Judges and Board of Review to disregard his report.

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: October 7, 2015

CONCURRED IN BY:

Chief Justice Margaret L. Workman
Justice Robin J. Davis
Justice Brent D. Benjamin
Justice Menis E. Ketchum
Justice Allen H. Loughry II