

1986

Mannes - Vale, Inc. v. Robert K. Vale : Brief of Appellant

Utah Supreme Court

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20917

THE SUPREME COURT OF THE STATE OF UTAH

MANNES - VALE, INC. and/or
STATE INSURANCE FUND,

Defendants/Appellants,

vs.

ROBERT K. VALE and/or the
INDUSTRIAL COMMISSION OF UTAH,

Applicant/Respondents.

Supreme Court No. 20917

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	:	
Applicant/Respondents.	:	

STATEMENT OF ISSUES PRESENTED ON APPEAL

This case presents only one issue on appeal. The issue is whether the Industrial Commission had the requisit "continuing jurisdiction" necessary to enter its recent order of July 12, 1985, holding that State Insurance Fund was under a continuing obligation to pay medical benefits to applicant.

STATEMENT OF FACTS

Applicant, Robert K. Vale, suffered an industrial injury to his eye, ear and shoulder on June 3, 1968. (R.3, 31, 33). Mr. Vale received medical benefits and temporary-total disability up to and including August 23, 1971. (R.33).

No further claim for compensation or benefits was made by the applicant between August 23, 1971 and August 23, 1974. Some medical bills were submitted to defendant, State Insurance Fund in late 1974. State Insurance Fund refused to pay these bills because the three-year statute of limitations contained in Utah Code Ann., Section 35-1-99 had run as of August 23, 1974. (R.33).

A hearing was held on November 29, 1971, in which applicant challenged State Insurance Fund's denial of further compensation and benefits. (R.9, 33). On December 9, 1976, the Administrative Law Judge issued an order dismissing Mr. Vale's application and denying any compensation or benefits. The basis for the Administrative Law Judge's decision was that the Industrial Commission was without jurisdiction to act due to the running of the three-year statute of limitations. (R.33-37).

Applicant Vale filed a Motion for Review on December 27, 1976; and State Insurance Fund filed a Memorandum in Response on April 21, 1977. (R.39-46, 48-56). The Industrial Commission denied applicant's motion on May 17, 1977. Applicant did not appeal this decision to the Utah Supreme Court.

Much later, on March 4, 1985, a second Application for Hearing was filed by applicant, requesting additional medical benefits. (R.87). The matter was referred to the Industrial Commission. It issued an order on July 12, 1985, holding that State Insurance Fund was under a continuing obligation to pay medical benefits to applicant. (R.93-96).

Defendant State Insurance Fund then petitioned the Supreme Court for Writ of Review (R.110-120) and now submits its brief in this matter.

SUMMARY_OF_ARGUMENT

The Industrial Commission did not have the continuing jurisdiction necessary to enter its order of July 12, 1985,

because its earlier order of May 17, 1977 was res judicata on the issue of the Commission's jurisdiction over the case.

ARGUMENT

POINT I

THE INDUSTRIAL COMMISSION IS PRECLUDED FROM AWARDING BENEFITS TO APPLICANT BECAUSE THE ORDER OF DECEMBER 12, 1976 IS RES JUDICATA AS TO ANY CLAIM BY APPLICANT IN CONNECTION WITH HIS INDUSTRIAL INJURY OF JUNE 3, 1968.

The doctrine of res judicata renders a final judgement, on the merits, by a court of competent jurisdiction, conclusive upon the parties and is a bar to subsequent litigation of the same issues. Bernard v. Attebury, Utah, 629 P.2d 892, 895 (1981). The final adjudication of a claim for relief is binding on the parties and precludes a subsequent adjudication of the same claim. Church v. Meadow Springs Ranch Corp., Inc., Utah, 659 P.2d 1045, 1048 (1983). Furthermore, res judicata is a rule of inflexible, absolute law. If a judgement is entitled to res judicata effect, then it is conclusive as to the causes of action involved, no matter how unfair or patently erroneous it may appear on later examination. Thus, a judgement may be res judicata even though it is based on an error of law or mistake of fact. See for example: El Paso National Gas Company v. State of Ariz., et al., 123 Ariz. 219, 599 P.2d 175 (1979).

The doctrine of res judicata applies to decisions of administrative agencies, as well as to those of courts. Restatement Second, Judgments, Section 83(1). See also: Larson, Workman's Compensation Law, Vol. 3, Sec. 79.72(a). In the recent case of

Utah Dept. of Admin. Services v. Public Service Comm., Utah, 658 P.2d 601 (1983), the court stated:

[T]he principles of res judicata apply to enforced repose when an administrative agency has acted in a judicial capacity in an adversary proceeding to resolve a controversy over legal rights and to apply a remedy. (Citations omitted).

Id. at 621. The United State Supreme Court has voiced a similar statement:

When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata to enforce repose.

United States v. Utah Const. and Mining Co., 384 U.S. 394, 16 L.Ed.2d 642, 661, 86 S.Ct. 1545 (1966). The decision, then, of the Industrial Commission as an administrative agency must be given res judicata effect because the Commission was acting in a "judicial capacity" and resolved "a controversy over legal rights" when it made its decision denying any compensation or benefits to applicant Vale in 1976.

In the context of res judicata, the phrase "final judgment" means that no further proceedings are pending or possible which might alter or upset the judgment. Any right of appeal must have been exhausted, or the time for exercise of such right must have expired. Restatement Second, Judgments, Sections 13, 19.

Applicant Vale's claim for compensation and medical benefits was denied on the basis of a lack of jurisdiction by the Administrative Law Judge in his order of December 9, 1976.

(R.33-37). Applicant appealed that order to the Industrial Commission. (R.39-46). Memoranda were filed by respective counsel. (R.39-46, 48-56). On May 17, 1977, the Industrial Commission affirmed the Administrative Law Judge's order denying applicant's claim for compensation and benefits. (R.58). Under Utah Code Ann., Section 35-1-83 (1953, as amended), an applicant has 30 days to appeal an order of the Industrial Commission to the Utah Supreme Court. Applicant Vale, however, never appealed the Commission's order of May 17, 1977. Therefore, this became a "final order" of no jurisdiction and must be res judicata as to any claim for compensation or benefits in connection with the industrial injury at issue. See for example: Parsons v. Benkins Freight, 108 Ariz. 130, 493 P.2d 913 (1972); Calixto v. Indus. Comm. of Ariz., 126 Ariz. 400, 616 P.2d 75 (App. Ct. 1980).

The holding in the Administrative Law Judge's December 1976 order concerned the issue of the Industrial Commission's jurisdiction, as follows:

The cases clearly show that the three-year statute does apply in this case and that the application of the statute of limitations requiring a filing within three-years is jurisdictional and not discretionary with the Commission. If the Claimant failed to file an application within three years after the date of injury or the payment of last compensation, no matter how equitable the claim may be, the Commission is without jurisdiction to do other than dismiss the application.

* * * * *

The application by the Claimant, Robert K. Vale, for additional benefits for medical expenses, for permanent-partial disability compensation for temporary-total disability compensation should be denied.

Thus, the Administrative Law Judge's December 1976 order, affirmed by the Industrial Commission in May 1977, held that the Commission was without jurisdiction to consider Mr. Vale's application.

Since the applicant did not appeal the Commission's order of May 1977 to the Utah Supreme Court, that order became res judicata and the holding concerning the issue of jurisdiction became the law of the case. The Commission's assertion of jurisdiction over this case in its later order of July 12, 1985 was barred by its own order of May 1977 which was res judicata. Thus, the Industrial Commission was without jurisdiction to make its later order. Accordingly, the Utah Supreme Court should reverse or vacate the Commission's order of July 12, 1985.

Applicant Vale may be tempted to argue that the Industrial Commission has "continuing jurisdiction" to modify or change its former order, according to Utah Code Ann., Section 35-1-78 (1953, as amended) (See Addendum for complete text of statute.). However, this section merely provides that the Commission has continuing jurisdiction once initial jurisdiction has been established while limitation periods are running. United States Smelting, Refining and Mining Co. v. Nielsen, 19 Utah 2d 239, 430 P.2d 162 (1967), affirmed 20 Utah 2d 271, 437 P.2d 199 (1968). In his December 1976 order, the Administrative Law Judge held that the Commission was without jurisdiction precisely because the statute of limitations had run. Again, in order for the Commission to exercise continuing jurisdiction, it must obtain jurisdiction over the action in the first place. According

to the December 1976 order, which later became res judicata, the Industrial Commission never obtained jurisdiction over this matter. Therefore, it may not now exercise continuing jurisdiction to award medical benefits.

A second possible objection involves the separate status of medical benefits. In the Industrial Commission's recent order of July 12, 1985, allowing the payment of medical benefits to applicant, it cited Kennecott Copper Corp. v. Indus. Comm., Utah, 597 P.2d 875 (1979) and Christensen v. Indus. Comm., Utah, 642 P.2d 755 (1982). These two cases establish that for the purpose of limitation periods, medical benefits are considered in a different light than weekly compensation under the Workers' Compensation Act. Kennecott Copper Corp., supra., held that once it is established that there is a recognizable industrial injury by accident, the medical benefits are not barred by the three-year statute of limitations in Section 35-1-99, Utah Code Ann.. Although the Administrative Law Judge's December, 1976, order and the Commission's affirmation of May, 1977, may be contrary to subsequent law, the law of the case is binding on the parties. It remains the fact that the former holdings of the Commission continue to have res judicata effect. The Commission simply did not have jurisdiction to enter its recent order of July 12, 1985.

CONCLUSION

The Industrial Commission's order of May 17, 1977 was a final order of an administrative agency; and, as such, the doctrine of res judicata applies. Since the substance of the May

1977 order was that the Commission was without continuing jurisdiction over applicant's case, that holding is res judicata. Possible objections that the Commission has continuing jurisdiction under Section 35-1-78, or that medical benefits are separate from and treated differently than compensation do not alter the res judicata effect of the Commission's May 1977 order. Therefore, the Industrial Commission was without jurisdiction to enter its order of July 12, 1985. Accordingly, the Supreme Court should reverse or vacate the Commission's order of July 12, 1985.

DATED this 23 day of December, 1985.

BLACK & MOORE

/s/
James R. Black

/s/
Laurie A. Haynie

CERTIFICATE OF MAILING

I hereby certify that four true and correct copies of the above and foregoing Brief of Appellants, was mailed, postage paid, on the 23 day of December, 1985, to the following:

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ADDENDUM

35-1-78. Continuing jurisdiction of commission to modify award - Authority to destroy records - Interest on award.

The powers and jurisdiction of the commission over each case shall be continuing, and it may from time to time make such modification or change with respect to former findings, or orders with respect thereto, as in its opinion may be justified, provided, however, that records pertaining to cases, other than those of total permanent disability or where a claim has been filed as in 35-1-99, which have been closed and inactive for a period of 10 years, may be destroyed at the discretion of the commission.

Awards made by the industrial commission shall include interest at the rate of 8% per annum from the date when each benefit payment would have otherwise become due and payable.

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