

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD MEJIA,
Appellant,

vs.

EMPLOYERS INSURANCE COMPANY OF
NEVADA,
Respondent.

No. 39248

FILED

JAN 20 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying a petition for judicial review in a workers' compensation case. Second Judicial District Court, Washoe County; Peter I. Breen, Judge.

Appellant challenges a July 11, 2000 appeals officer's decision denying his requests to reopen a 1994 claim and/or to accept a claim for a new injury/occupational disease, and the propriety of respondent's actions directing him to submit to an independent medical examination.¹ On July 13, 2004, this court directed respondent to answer appellant's claims, and respondent timely filed its response.

In the context of an appeal from a district court order denying a petition for judicial review of an administrative decision, this court examines the administrative decision for clear error or abuse of discretion.² While purely legal determinations are reviewed independently, the appeals officer's fact-based conclusions of law are

¹We grant appellant's June 24, 2002 motion for leave to file an opening brief in proper person, styled "motion to accept opening brief as presented," and we direct the clerk of this court to file the motion and the proposed opening brief and appendices provisionally received in this court on June 24, 2002. NRAP 46(b).

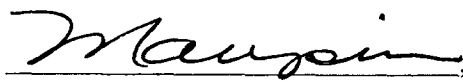
²Construction Indus. v. Chalue, 119 Nev. 348, 352, 74 P.3d 595, 597 (2003) (citations omitted).

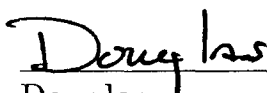
entitled to deference, and will not be disturbed if they are supported by substantial evidence. Substantial evidence is “that ‘which a reasonable person might accept as adequate to support a conclusion.’”³ Nor will this court substitute its judgment for that of the appeals officer as to “the weight of the evidence.”⁴ Our review is limited to the record before the appeals officer.⁵

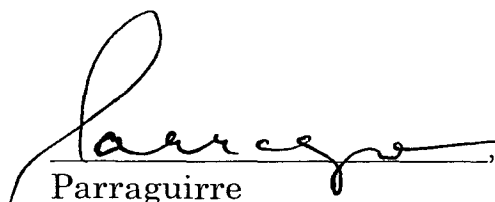
Having reviewed the administrative record and considered the parties’ arguments, we conclude that the appeals officer’s determination that appellant failed to sufficiently demonstrate a change of conditions warranting claim reopening, the existence of a new injury/occupational disease, or the aggravation of his 1994 industrial injury, was not effected by clear error or abuse of discretion. Nor is there evidence that the scheduled IME was improper or prejudicial to Mejia’s best interests.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

³Ayala v. Caesars Palace, 119 Nev. 232, 235, 71 P.3d 490, 491-92 (2003) (quoting SIIS v. Montoya, 109 Nev. 1029, 1032, 862 P.2d 1197, 1199 (1993)).

⁴Chalue, 119 Nev. at 352, 74 P.3d at 597.

⁵Ayala, 119 Nev. at 235, 71 P.3d at 491.

cc: Hon. Peter I. Breen, District Judge
Beckett & Yott, Ltd./Carson City
Richard Mejia
Washoe District Court Clerk