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Supreme Court, Appellate Division, Third Department, New York

Matter of MICHAEL SIMPSON, Claimant-Appellant

v

NEW YORK CITY TRANSIT AUTHORITY, Respondent,

and

WORKERS' COMPENSATION BOARD, Respondent

Decided June 1, 2017

Facts: The claimant was a bus driver who retired in 2011 and applied for workers' compensation benefits, claiming a repetitive stress injury to his knees. The carrier had the claimant examined by Dr. Ferriter who found no causal relationship. The claimant underwent an MRI of both knees and the carrier had the claimant reexamined by Dr. Wilson, who also found no causal relationship. The Board credited Dr. Wilson and disallowed the claim. The Appellate Division had reversed this decision and remitted the case for reconsideration, as the Board had misread the MRI. On reconsideration, the Board credited Dr. Wilson's testimony and disallowed the claim again. The claimant appealed.

Holding: *Affirmed.*

Discussion: Dr. Wilson's medical opinion was based upon a probability of the underlying cause that is supported by a rational basis, and it was within the Board's exclusive province to credit the opinion of Dr. Wilson over the claimant's treating physician. The Board's decision was supported by substantial evidence and will not be disturbed, even if the record contains a different medical opinion that could have supported a different result. The Court further notes that the decision is not contrary to the remittal order, and it did not preclude the Board from crediting and relying on Dr. Wilson's testimony and interpretation of the MRI results.