

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 96-60786  
Summary Calendar

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JOE S. KIRKLAND,

Petitioner,

VERSUS

INGALLS SHIPBUILDING, INC.,  
DIRECTOR, OFFICE OF WORKERS'  
COMPENSATION PROGRAMS  
U.S. DEPARTMENT OF LABOR,

Respondents.

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Petition for Review of Benefits Review Board  
(94-3699)

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August 21, 1997

Before KING, HIGGINBOTHAM and DAVIS, Circuit Judges.

PER CURIAM:\*

This is an appeal from an order denying benefits to claimant under the Longshore & Harbor Workers' Compensation Act.

Petitioner Joe kirkland argues that the ALJ's finding that he failed to establish that he sustained a disabling back injury is not supported by substantial evidence. Petitioner submitted the

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\*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

testimony of one physician who supported his claim that he sustained a compensable back injury as a result of his work related accident. However, a number of physicians testified to the contrary and asserted that they found no evidence of any measurable disability in the claimant's back that was related to his work related accident; this testimony provides substantial evidence to support the ALJ's finding.

Petitioner also argues that ALJ erred in refusing to impose liability against his employer for medical expenses he incurred in consulting Dr. Jarrot, the only physician to diagnose him with a compensable back injury. The petitioner neither sought nor received authorization from his employer or the district director to see Dr. Jarrot; as a result, the ALJ did not err in denying petitioner recovery of these medical expenses under 33 U.S.C. § 907(b)<sup>1</sup>.

Because the ALJ's findings are supported by substantial evidence, the order denying benefits is

AFFIRMED.

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<sup>1</sup>See also 20 C.F.R. § 702.406(a)(requiring the employee to get the consent of his employer or the district director to change physicians).