

United States Court of Appeals,

Eleventh Circuit.

No. 96-9295

Non-Argument Calendar.

William F. DONALDSON, Petitioner,

v.

COASTAL MARINE CONTRACTING CORP. INSURANCE COMPANY of NORTH AMERICA; Director, Office of Workers' Compensation Programs; United States Department of Labor, Respondents.

July 16, 1997.

Before DUBINA and BARKETT, Circuit Judges, and HILL, Senior Circuit Judge.

HILL, Senior Circuit Judge:

In this Petition for Review of final action of the Benefits Review Board¹ disposing of Petitioner's claims under the Longshore and Harbor Workers' Compensation Act,² two issues are presented:

1. Whether the Administrative Law Judge's (ALJ) decision and order is final and ripe for review by this court, and
2. Whether the ALJ's order is to be upheld or vacated?

Under the provisions of the Department of Labor Appropriations Act,³ the Department is prohibited from using appropriated funds after September 12, 1996, to review cases such as this appeal to the Board of Review which had been pending for more than a year as of that date. Those pending for that time and not acted upon are required to be considered affirmed and final on September 12, 1996 for purposes of judicial review.⁴ Thus, the Courts of Appeal are to review

¹An adjudicatory agency within the United States Department of Labor.

²33 U.S.C. § 901 *et seq.*

³Public Law No. 104-134, 110 Stat. 1321-211, 1321-219.

⁴Whether or not the Congress viewed the Benefits Review Board heavily laden with work and Court of Appeals idle and underworked does not appear from the record. However, the Act does transfer Board work to the judiciary.

awards of ALJ's without the benefit of the conclusions of the experienced members of the Board.

The Congress has the power to amend the substantive law governing review of these cases through an appropriations bill. *Robertson v. Seattle Audubon Society*, 503 U.S. 429, 440-41, 112 S.Ct. 1407, 1414-15, 118 L.Ed.2d 73 (1992) and it has done so in this instance. Petitioner's suggestion that the ALJ's order is not ripe for review is not well-taken.

II.

While evidence was conflicting and, in view of the ALJ's finding that Petitioner lacked credibility, subject to different findings, the ALJ's decision is adequately supported and due to be upheld.

The Petition for Review is DENIED.