

RENDERED: OCTOBER 21, 2005; 2:00 P.M.  
NOT TO BE PUBLISHED

**Commonwealth Of Kentucky**  
**Court of Appeals**

NO. 2005-CA-001060-WC

LOUIS C. MEIER

APPELLANT

v. PETITION FOR REVIEW OF A DECISION  
OF THE WORKERS' COMPENSATION BOARD  
ACTION NO. WC-04-00473

KROGER; HONORABLE J. LANDON  
OVERFIELD, ADMINISTRATIVE LAW  
JUDGE; AND WORKERS' COMPENSATION  
BOARD

APPELLEES

OPINION  
AFFIRMING

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BEFORE: DYCHE AND SCHRODER, JUDGES; ROSENBLUM, SENIOR JUDGE.<sup>1</sup>

DYCHE, JUDGE: Louis Meier petitions for review of an opinion of  
the Workers' Compensation Board which affirmed an Opinion and  
Award of the Administrative Law Judge finding that Meier

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<sup>1</sup> Senior Status Judge Paul W. Rosenblum sitting as Special Judge by Assignment of the Chief Justice pursuant to Section 110 (5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

suffered from no permanent partial disability, and he was not entitled to future medical expenses. We affirm.

Meier argues that a work-related injury on July 26, 2003, aroused into disabling reality a pre-existing asymptomatic condition. The disagreement is whether that work-related injury only temporarily exacerbated his pre-existing condition, or left him permanently worse off than he was prior to the injury.

Meier's own personal family physician testified that he began treating Meier for low back pain in 1989, and treated him thereafter on a regular basis for back complaints. Meier used anti-inflammatory medications, refilling his prescription on a monthly basis. The physician would have characterized Meier's condition as a pre-existing, active condition. He released Meier to return to full work duty on September 1, 2003, believing that Meier had returned to his "baseline," or pre-injury status. Other physicians testified in a similar fashion.

The only physician who supported Meier's position received a less-than-accurate history: no prior back problems. This is not evidence which compels a finding in Meier's favor, as required by Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky.App. 1984). We therefore affirm the opinion of the Workers' Compensation Board.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ched Jennings  
Louisville, KY

BRIEF FOR APPELLEE:

Brian T. Gannon  
Fulton & Devlin  
Louisville, KY