OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION TWO

BRUCE KRYSL,	)	No. ED109568
	)	
Appellant,	)	
	)	Appeal from Labor and
	)	Industrial Relations Commission
vs.	)	
	)	
TREASURER OF MISSOURI AS CUSTODIAN OF SECOND INJURY FUND,	)	
	)	
Respondent.	)	Filed: February 22, 2022

This is an appeal challenging the decision of the Labor and Industrial Relations Commission (Commission) reversing an award granting Bruce Krysl (Claimant) recovery from the Second Injury Fund (Fund). This case arises under § 287.220.2, R.S.Mo., which is the statutory subsection governing the dwindling set of claims against the Fund arising from injuries occurring before January 1, 2014. Claimant contends that the Commission's conclusion that his preexisting injury was not "permanent" within the meaning of that statutory section was incorrect.

REVERSED.

Division Two Holds: The legal standard to be applied in this matter is defined by statute and requires that the Claimant show a preexisting injury that is "permanent" or "permanent in nature." Unimpeached and unrebutted expert testimony before the Commission established that Claimant's preexisting injury was permanent. We therefore reverse and remand the matter with directions to reinstate the award in Claimant's favor.

Opinion by: Thomas C. Clark II, J.
Robert M. Clayton III, P.J., and Gary M. Gaertner, Jr., J., concur.

Attorney for Appellant: Thomas J. Gregory, Mogab & Hughes Attorneys, P.C.

Attorney for Respondents: Madalyn J. Campbell, Assistant Attorney General

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.