

**OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

SYLVESTER LEWIS,	)	No. ED100657
	)	
Claimant/Respondent,	)	Appeal from the Labor and Industrial
	)	Relations Commission
v.	)	
	)	
TREASURER OF THE STATE OF	)	Filed: June 30, 2014
MISSOURI, Custodian of the Second	)	
Injury Fund,	)	
	)	
Appellant.	)	

The Second Injury Fund (Fund) appeals from the Labor and Industrial Relations Commission's (Commission) decision awarding Sylvester Lewis (Claimant) permanent and total disability benefits from the Fund. On appeal, the Fund argues (1) the Commission erred in awarding benefits to Claimant from the Fund because the Commission considered Claimant's preexisting disabilities that had not yet reached maximum medical improvement at the time of the primary injury in calculating permanent total disability benefits and (2) the Commission's award was against the overwhelming weight of the evidence because the Commission relied upon expert testimony which the Fund asserts included the subsequent deterioration of Claimant's preexisting injuries.

AFFIRMED.

Division Two Holds: The Commission properly considered Claimant's preexisting permanent partial disabilities in determining Fund liability for permanent total disability benefits. The Commission's decision was supported by sufficient competent evidence in the record and was not based upon the subsequent deterioration of Claimant's preexisting injuries.

Opinion by: Sherri B. Sullivan, J. Lawrence E. Mooney, P.J., and Robert G. Dowd, Jr., J., concur.

Attorneys for Appellant Second Injury Fund: Adam T. Sandberg  
Attorney for Respondent Sylvester Lewis: David G. Plufka

<b>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.</b>
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