

**LOPEZ V. PHELPS DODGE CORP., 1972-NMCA-079, 83 N.M. 799, 498 P.2d 686 (Ct. App. 1972)**

**MANUEL B. LOPEZ, Plaintiff-Appellant,  
vs.  
PHELPS DODGE CORPORATION, Employer and Insurer,  
Defendant-Appellee**

No. 893

COURT OF APPEALS OF NEW MEXICO

1972-NMCA-079, 83 N.M. 799, 498 P.2d 686

June 16, 1972

Appeal from the District Court of Grant County, Hodges, Judge

**COUNSEL**

PATRICIO S. SANCHEZ, SERNA & SANCHEZ, Silver City, New Mexico, Attorney for Plaintiff-Appellant.

ROBERT J. YOUNG, SHANTZ, DICKSON & YOUNG, Silver City, New Mexico, Attorney for Defendant-Appellee.

**JUDGES**

HENDLEY, Judge, wrote the opinion.

WE CONCUR:

Lewis R. Sutin, J., B. C. Hernandez, J.

**AUTHOR: HENDLEY**

**OPINION**

{\*800} HENDLEY, Judge.

{1} Plaintiff appeals the denial of workmen compensation benefits. It is plaintiff's contention that the uncontradicted evidence shows that plaintiff sustained an injury on October 27, 1970 while in the course and scope of his employment. The trial court found that the injury to plaintiff's back did not arise out of and in the course of his

employment and that the injury complained of was a natural and direct result of an off-the-job injury. We affirm.

{2} In reviewing workmen compensation cases, we consider only evidence and inferences that may be reasonably drawn therefrom in the light most favorable to support the findings. *Quintana v. East Las Vegas Municipal School District*, 82 N.M. 462, 483 P.2d 936 (Ct. App. 1971).

{3} There was evidence that plaintiff had been visiting doctors prior to the date of the accident for which compensation is claimed. Plaintiff had seen one doctor on October 26th and "told him... [he] was getting running pains up to... [his] back." He told another doctor on the date of the purported accident he had had pain in his back for the past two weeks. He told the assistant shift foreman on October 5, 1970 that he had fallen off his house and hurt his back.

{4} We think the foregoing evidence to be substantial to support the trial court's finding.

{5} Plaintiff further contends that his testimony regarding the happening of the injury is not subject to reasonable doubt and cannot be arbitrarily disregarded by the trial court. We would agree with plaintiff if his testimony were to stand alone, however, as we have heretofore stated there was substantial evidence to the contrary which supports the trial court's findings. We do not weigh conflicting evidence or credibility of the witnesses but only view such evidence and inferences to be drawn therefrom as will support the findings. *Quintana v. East Las Vegas Municipal School District*, supra.

{6} Affirmed.

{7} IT IS SO ORDERED.

WE CONCUR:

Lewis R. Sutin, J., B. C. Hernandez, J.