

COURT OF APPEALS OF VIRGINIA

Present: Judges Bray, Annunziata and Overton

DAVID F. WHITE

v. Record No. 1405-95-2

MEMORANDUM OPINION\*

PER CURIAM

DECEMBER 5, 1995

COLEMAN ADAMS CONSTRUCTION, INC.

AND

GLOBE INDEMNITY COMPANY

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Robert L. Flax; Flax, Embrey & Stout, on brief), for  
appellant.

(Richard D. Lucas; Woods, Rogers & Hazlegrove, on  
brief), for appellees.

David F. White ("claimant") contends that the Workers' Compensation Commission erred in finding he failed to prove that his April 25, 1994 arthroscopic shoulder surgery and resulting disability were causally related to his compensable May 28, 1982 injury by accident. The commission also found that claimant's July 5, 1994 change in condition application was barred by the twenty-four month limitations period contained in Code § 65.2-708. A review of the record and the briefs of the parties reveals that White failed to appeal the limitations finding. Therefore, it is binding and conclusive upon us on appeal, and is dispositive of this appeal. Accordingly, we summarily affirm the commission's decision. Rule 5A:27. We need not address the

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\*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

causation issue. Claimant's motion to assess costs of the appendix is denied.

Affirmed.