

ISSUE PRESENTED**Statement of Issue**

Whether the South Dakota Department of Labor erred in failing to find that willful misconduct in the form of illegal drug use was a substantial factor in causing Mr. Thomas VanSteenwyk's injury.

Resolution by Department

The Department held that Employer and Insurer failed to meet their burden of proof with respect to the argument that Mr. VanSteenwyk's injury was due to his illegal drug use. The Department held that Mr. VanSteenwyk's "alleged failure to follow accepted safety procedures was not due to his marijuana use or impairment." AR 180; (Appendix 5).