



DECISIONS, NOTICES, AND ORDERS

Monday, June 5, 2023

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of May 2023. This list contains only the actions of note taken by the Intermediate Court, not the content or actual date of orders or decisions.

SIGNED OPINIONS

In accordance with Rule 22, signed opinions were entered in the following cases:

Steven Kittle v. ACNR Resources, Inc., 22-ICA-204 (Workers' Compensation Board of Review)
Affirmed (3-0)

Blackhawk Mining, LLC v. Harris Argabright, 22-ICA-262 (Workers' Compensation Board of Review) Reversed, in part, Affirmed, in part (3-0)

West Virginia Heating & Plumbing Company v. Tyler J. Carroll, 22-ICA-167 (Workers' Compensation Office of Judges)
Reversed and Remanded (3-0)

MEMORANDUM DECISIONS

In accordance with Rule 21, memorandum decisions were entered in the following cases:

Mountain State Beverage v. Daniel Skipper II, 23-ICA-63 (Workers' Compensation Board of Review)
Affirmed (3-0)

ACNR Resources, Inc. v. Kevin Barnhart, 23-ICA-35 (Workers' Compensation Board of Review)
Affirmed (3-0)

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David Dwayne Davis v. H & E Trucking, Inc., 23-ICA-27 (Workers' Compensation Board of Review)
Affirmed (3-0)

City of Beckley v. Philip Law, 22-ICA-329 (Workers' Compensation Board of Review)
Affirmed (3-0)

ICG Beckley, LLC v. Arthur Davis, 22-ICA-326 (Workers' Compensation Board of Review)
Affirmed (3-0)

Dena Almond v. West Virginia State Agencies, 22-ICA-321 (Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

Arch Coal, Inc. v. Jobie Howard, 22-ICA-310 (Workers' Compensation Board of Review)
Affirmed (3-0)

Robert D. Bender v. WVSR, Inc. and West Virginia Offices of the Insurance Commissioner, in its capacity as administrator of the Old Fund, 22-ICA-309 (Workers' Compensation Board of Review)
Reversed and Remanded (3-0)

William Wagner v. Starvaggi Industries, Inc., 22-ICA-307 (Workers' Compensation Board of Review)
Affirmed (3-0)

Sharese W. v. Devon W., 22-ICA-303 (Fam. Ct. of Jefferson Cnty. No. FC-19-2018-D-300)
Reversed and Remanded (3-0)

Kenneth Cole v. Cam Mining, LLC, 22-ICA-299 (Workers' Compensation Board of Review)
Affirmed (3-0)

Siraaj M. v. Stephanie M. and West Virginia Department of Health and Human Resources, Bureau for Child Support Enforcement, 22-ICA-288 (Fam. Ct. of Jefferson Cnty. No. FC-19-2011-D-509)
Remanded with Directions (3-0)

Jackson E. v. Olga E., 22-ICA-283 (Fam. Ct. of Kanawha Cnty. No. 19-D-1112)
Affirmed, in part, Reversed, in part, and Remanded (3-0)

Marsha Skinner v. ACNR Resources, Inc., 22-ICA-282 (Workers' Compensation Board of Review)
Affirmed (3-0)

Alpha Metallurgical Resources, Inc. v. Charles E. Nelson, 22-ICA-270 (Workers' Compensation Board of Review)
Affirmed (3-0)

Triton Construction, Inc. v. Chad Blaney, 22-ICA-261 (Workers' Compensation Board of Review)
Affirmed (3-0)

Hope Harrell v. Quad Graphics, Inc., 22-ICA-251 (Workers' Compensation Board of Review)
Affirmed (3-0)

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Quanta Services, Inc. v. Zachary Bolling, 22-ICA-244 (Workers' Compensation Board of Review)
Affirmed (3-0)

Belinda K. Lawrence v. Latasha L. Smith, 22-ICA-161 (Cir. Ct. of Kanawha Cnty. No. 19-C-129)
Reversed and Remanded with Directions (3-0)

Debra K. Zuspan v. Charles H. Zuspan, Jr., 22-ICA-155 (Fam. Ct. of Mason Cnty. No. FC-26-2018-D-13)
Affirmed (3-0)

Barry Blackburn v. City of Smithers, 22-ICA-69 (Cir. Ct. of Fayette Cnty. No. CC-10-2022-C-39)
Affirmed, in part, Vacated, in part, and Remanded with Instructions (3-0)

Jefferey Pearce v. West Virginia Department of Health and Human Resources Bureau for Social Services,
22-ICA-7 (West Virginia Department of Health and Human Resources Board of Review No.
22-BOR-1878)
Reversed and Remanded with Instructions (3-0)

Anne Y. v. Daniel Y., 22-ICA-229 (Fam. Ct. of Cabell Cnty. No. 21-D-493)
Affirmed (3-0)

Mark White v. Cynthia White, 22-ICA-177 (Fam. Ct. of Fayette Cnty. No. FC-10-2013-D-202)
Affirmed (3-0)

Kimberly Mahdavi v. Malek Mahdavi, 22-ICA-255 (Fam. Ct. of Monongalia Cnty. No. 21-D-42)
Reversed (3-0)

Bradlee Jordan v. Lincoln County Board of Education, 22-ICA-19 (West Virginia Public Employees
Grievance Board No. 2022-0059-LinED)
Reversed (3-0)

Tori Geary (Deceased) v. Valley Grove Volunteer Fire Department, 22-ICA-275
(Workers' Compensation Board of Review)
Reversed and Remanded (2-0) (Judge Scarr, not participating)

Melvin L. v. Brianna W., 22-ICA-295 (Fam. Ct. of Berkeley Cnty. No. FC-02-2020-D-696)
Remanded with directions (3-0)

ACNR Resources, Inc. v. Michael Sadaly, 22-ICA-302 (Workers' Compensation Board of Review)
Affirmed (3-0)

Revelation Energy, LLC v. Anthony Preece, 22-ICA-260 (Workers' Compensation Board of
Review)
Affirmed (3-0)

Charleston Area Medical Center, Inc. v. Kathy Bragg, 22-ICA-132 (Workers' Compensation Board
of Review)
Affirmed (3-0)

Jerry King v. Gestamp North America, Inc., 22-ICA-328 (Workers' Compensation Board of
Review)
Reversed and Remanded (3-0)

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Anthony G. Mullins v. Allied Waste Services of North America, 23-ICA-55 (Workers' Compensation Board of Review)
Affirmed (3-0)

Mingo Logan Coal Company v. Darren Neil, 23-ICA-3 (Workers' Compensation Board of Review)
Vacated and Remanded (3-0)

Joey A. Fields v. City of Nitro, 23-ICA-43 (Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

Marion D. Helmandollar v. Blackhawk Mining, LLC, 23-ICA-4 (Workers' Compensation Board of Review)
Affirmed (3-0)

ACNR Resources, Inc. v. Renee J. Orr, 22-ICA-315 (Workers' Compensation Board of Review)
Affirmed (3-0)

ACNR Resources, Inc. v. Patrick Martie, 23-ICA-9 (Workers' Compensation Board of Review)
Affirmed (3-0)

Ian C. v. Amy C., 23-ICA-12 (Fam. Ct. of Cabell Cnty. No. 21-D-149)
Affirmed (3-0)

Tiffany S. v. Robert S., 23-ICA-21 (Fam. Ct. of Wyoming Cnty. No. FC-55-2015-D-127)
Affirmed (3-0)

Jay Folse v. G. Russell Rollyson, Jr. and John McCuskey, Jr., 22-ICA-87 (Cir. Ct. of Cabell Cnty. No. 22-C-107)
Affirmed (3-0)

Capitol Beverage Company v. Anthony Cosby, 23-ICA-37 (Workers' Compensation Board of Review)
Affirmed (3-0)

Rimdaugas K. v. Gerda K., 22-ICA-174 (Fam. Ct. of Gilmer Cnty. No. 21-D-26)
Affirmed (3-0)

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument:

IPI, Inc. and Matthew Joseph Taylor v. Axiall Corporation and Eagle Natrium, LLC, 22-ICA-164 (Cir. Ct. of Marshall Cnty. No. 18-C-14) (3-0)

Charleston Area Medical Center, Inc. v. Raleigh General Hospital and the West Virginia Health Care Authority, 22-ICA-169 (West Virginia Health Care Authority No. 21-1-12253-H) (3-0)

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Jay Folse v. G. Russell Rollyson, Jr. and John McCuskey, Jr., 22-ICA-243 (Cir. Ct. of Marshall Cnty. No. 22-P-30(c)) (3-0)

Mark Scafella v. Erie Insurance Company and Stanley Gebo, 22-ICA-173 (Cir. Ct. of Marshall Cnty. No. 19-C-116) (3-0)

Donald C. Nichols v. Maroney Williams Weaver & Pancake PLLC and Patrick K. Maroney, 22-ICA-168 (Cir. Ct. of Kanawha Cnty. No. 20-C-518) (3-0)

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument:

SWN Production Company, LLC v. City of Weirton and City of Weirton Board of Zoning Appeals, 22-ICA-83 (Cir. Ct. of Brooke Cnty. Nos. CC-05-2021-C-71 and CC-05-2021-P-35) (3-0)

Earl J. Nicholson and Joyce A. Nicholson v. Severin POA Group, LLC, Antero Resources Corporation, Rockwell Resources, LLC, JEC Production LLC, and Robert R. Jones, et al., 22-ICA-207 (Cir. Ct. of Doddridge Cnty. No. CC-09-2020-C-25) (3-0)

Nicholas A. Ghaphery, D.O., as Personal Representative of the Estate of Austin Ghaphery v. Wheeling Treatment Center, LLC and John Schultz, M.D., 22-ICA-150 (Cir. Ct. of Ohio Cnty. No. CC-35-2019-C-182) (3-0)

ORDERS

Orders of note were entered in the following cases:

Blackhawk Mining, LLC v. Joseph Browning, 23-ICA-163
(Workers' Compensation Board of Review)
Motion for Stay Refused (3-0)

The Insurance Commissioner of West Virginia, in its capacity as administrator of The Old Fund and Eastern Associated Coal, LLC v. Colleen Jarrell Dependent of Delmar Jarrell (deceased), 23-ICA-168
(Workers' Compensation Board of Review)
Motion for Stay Granted (3-0)