



DECISIONS, NOTICES, AND ORDERS

Monday, July 10, 2023

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of June 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:

Charles WV Mall, LLC v. Charleston Urban Renewal Authority and UMB, N.A., as Successor Trustee for the Bondholders for the Series 1996C Subordinate Capital Appreciation Parking Facility Refunding Bonds, 22-ICA-36 (Cir. Ct. Kanawha Cnty. No. 17-C-1527)

Reversed and Remanded with Directions (3-0)(Judge Lorensen, voluntarily recused) (Judge Phillip M. Stowers, sitting by temporary assignment)

American Bituminous Power Partners, L.P. v. Horizon Ventures of West Virginia, Inc., 22-ICA-34 (Cir. Ct. Marion Cnty. No. CC-24-2018-C-76)

Affirmed (3-0) (Judge Lorensen, voluntarily recused) (Judge Jeffrey D. Cramer, sitting by temporary assignment) (Judge Scarr, consensually disqualified) (Judge Darl W. Poling, Jr., sitting by temporary assignment)

Justice Highwall Mining, Inc., Dynamic Energy, Inc., and Bluestone Industries, Inc. v. Ricky M. Varney, 22-ICA-39 (Cir. Ct. Wyoming Cnty. No. CC-55-2018-C-41)

Affirmed, in part, Vacated, in part, and Remanded (3-0)

Jason Ryan Moorhead v. West Virginia Army National Guard and West Virginia Mountaineer Challenge Academy, 22-ICA-58 (Cir. Ct. Preston Cnty. No. 18-C-71)

Affirmed (3-0)

In Re: Petition of D.K. for Expungement of Record, 22-ICA-122 (Cir. Ct. Randolph Cnty. No. 22-P-31)

Affirmed (2-0)(Judge Scarr, dissenting)

ORDER LIST

July 10, 2023

Page 2

Michelle Stoudt v. Kristen P. Eads, M.D., 22-ICA-159 (Cir. Ct. Kanawha Cnty. No. 20-C-874)
Affirmed (3-0)

Jonpaul C. v. Heather C., 22-ICA-214 (Fam. Ct. Barbour Cnty. No. 19-D-25)
Reversed and Remanded (3-0)

Bucky Thompson v. Western Construction, Inc., 23-ICA-26 (Workers' Compensation Board of Review)
Reversed and Remanded (3-0)

Katherine A. v. Jerry A., 22-ICA-52 (Fam. Ct. Ohio Cnty. No. FC-35-2022-D-82)
Reversed and Remanded (2-1) (Judge Lorensen concurring, in part, and dissenting, in part)

MEMORANDUM DECISIONS

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

E.B. v. Alliance Coal, LLC, 22-ICA-278 (Workers' Compensation Board of Review)
Affirmed (3-0) (Judge Scarr, voluntarily recused) (Judge Gregory L. Howard, sitting by temporary assignment)

Workforce West Virginia v. Charles T. Galloway, 22-ICA-79 (Workforce West Virginia Board of Review No. X-2022-0066)
Affirmed (3-0)

Lisa Paxton v. West Virginia Department of Homeland Security/ Division of Emergency Management and Division of Personnel, 22-ICA-117 (West Virginia Public Employees Grievance Board No. 2021-2342-MAPS)
Affirmed (3-0)

Mary C. Sutphin v. A. David Abrams, Jr., 22-ICA-126 (Cir. Ct. Raleigh Cnty. No. CC-41-2017-C-591)
Affirmed, in part, Reversed, in part, and Remanded with Instructions (3-0)

West Virginia Department of Health and Human Resources v. Lydia Downs-Jamal, 22-ICA-129 (Cir. Ct. Berkeley Cnty. No. CC-02-2021-AA-6)
Affirmed, in part, Reversed, in part, and Remanded with Instructions (3-0)

Kenneth Rush, as Personal Representative of the Estate of Timothy Rush, deceased v. Danasdome, LLC, Dana Pitchford, Kuppel, LLC, Ha To Ta, and Thanh TA, 22-ICA-133 (Cir. Ct. Kanawha Cnty. No. 20-C-832)
Affirmed (3-0)

Norma Estep, Mary Smith, Stephanie Gunno, and Debra Greene v. William V. Greene and William V. Greene & Associates, Inc., 22-ICA-151 (Cir. Ct. Kanawha Cnty. No. 21-C-71)
Affirmed (3-0)

West Virginia Office of Miners' Health, Safety and Training v. Anthony Albert, 22-ICA-160 (Board of Appeals No. 20-D-53)
Reversed and Remanded (3-0)

ORDER LIST

July 10, 2023

Page 3

Christina M. Vogt v. Macy's, Inc. and Macys.com, LLC, 22-ICA-162 (Cir. Ct. Berkeley Cnty. No. CC-02-2022-C-214)

Affirmed, in part, Reversed, in part, and Remanded (3-0)

James M. v. Jennifer M., 22-ICA-165 (Cir. Ct. Kanawha Cnty. No. 20-D-471)

Affirmed (3-0)

Curtis Morrill v. Lifepoint Hospitals, Inc., 22-ICA-198 (Workers' Compensation Board of Review)

Affirmed (3-0)

Blackhawk Mining, LLC v. Michael Coomes, 22-ICA-264 (Workers' Compensation Board of Review)

Affirmed (3-0)

Gary Whited v. Blackhawk Mining, LLC, 22-ICA-300 (Workers' Compensation Board of Review)

Affirmed (3-0)

Ann L. v. Patrick J., 22-ICA-316 (Fam. Ct. Jefferson Cnty. No. FC-19-2018-D-63)

Reversed, in part, Vacated, in part, and Remanded with Directions (3-0)

Robert A. Payne v. Pinnacle Mining Co., LLC and West Virginia Offices of the Insurance Commissioner, in its capacity as administrator of the Old Fund, 23-ICA-7 (Workers' Compensation Board of Review)

Affirmed (2-0) (Judge Scarr, not participating)

Plateau Medical Center v. Peggy Garrett, 23-ICA-17 (Workers' Compensation Board of Review)

Affirmed (2-0) (Chief Judge Greear, dissenting)

Lloyd Johnson v. Kanawha Stone Company, Inc., and West Virginia Offices of the Insurance Commissioner, in its capacity as administrator of the Old Fund, 23-ICA-18 (Workers' Compensation Board of Review)

Affirmed (2-0) (Judge Scarr, not participating)

Samuel T. v. Tara T., 23-ICA-20 (Fam. Ct. Kanawha Cnty. No. 22-D-808)

Affirmed (3-0)

Michael S. v. Ashley B., 23-ICA-23 (Fam. Ct. Kanawha Cnty. No. 10-D-2057)

Affirmed (3-0)

C. Adam Toney Discount Tires v. Eric Compton, 23-ICA-25 (Workers' Compensation Board of Review)

Affirmed (3-0)

Morgantown Beauty College, Inc. v. Paula Kurczak, 23-ICA-38 (Workers' Compensation Board of Review)

Vacated and Remanded (3-0)

Patterson UTI Drilling Co., LLC v. Johnny O. Jones, 23-ICA-44 (Workers' Compensation Board of Review)

Affirmed (3-0)

ORDER LIST

July 10, 2023

Page 4

Monica Herrick v. Mark Herrick, 23-ICA-48 (Fam. Ct. Marion Cnty. No. FC-24-2021-D-166)
Affirmed (3-0)

Gregory Cavelli v. Autozone, 23-ICA-77 (Workers' Compensation Board of Review)
Affirmed (3-0)

Alpha Metallurgical Resources, Inc. v. Joshua Jenkins, 23-ICA-94 (Workers' Compensation Board of Review)
Affirmed (3-0)

Martin Hess v. Gilmer County Public Service District, 23-ICA-108 (Workers' Compensation Board of Review)
Affirmed (2-0) (Judge Scarr, not participating)

Stonewall Jackson Memorial Hospital Co. v. St. Joseph's Hospital of Buckhannon, Inc. d/b/a St. Joseph's Hospital and West Virginia Health Care Authority, 22-ICA-147 (West Virginia Health Care Authority No. 21-7-12157-H)
Affirmed (3-0)

RULE 20 ARGUMENT GRANTED

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

Ford Motor Company v. Angel Ellen Tyler, as Administrator of the Estate of Breanna Kristen Bumgarner, 22-ICA-208 (Cir. Ct. Kanawha Cnty. No. 18-C-182)

C.S. v. The Church of Jesus Christ of Latter-Day Saints, Chris and Sandra Lee Jensen, Matthew Whitcomb, Don Wrye, Anthony Naegle, & Christopher Michael Jensen, 22-ICA-141 (Cir. Ct. Berkeley Cnty. No. CC-02-2021-C-359)

ORDERS

Orders of note were entered in the following cases:

Jonathan M. v. Linda M., 23-ICA-180 (Fam. Ct. Fayette Cnty. No. FC-10-2015-D-380)
Motion for Stay Refused (3-0)

Logan General Hospital, LLC, d/b/a Logan Regional Medical Center and Rural Health Access Corporation, d/b/a Coalfield Health Center v. Boone Memorial Hospital, Inc. and West Virginia Health Care Authority, 23-ICA-134 (West Virginia Health Care Authority)
Motion for Stay Granted (3-0)

Robert Burkett v. Mountain Creek Properties Management, LLC, 23-ICA-230 (Cir. Ct. Kanawha Cnty. No. 2023-C-AP-51)
Motion for Stay Refused (3-0)

ORDER LIST

July 10, 2023

Page 5

Christopher McMillon and Sarah DeMastus v. Beverly Taylor, as Executrix of the Estate of Mary McMillon, 23-ICA-262 (Cir. Ct. Harrison Cnty. No. CC-17-2022-C-121)

Motion for Stay Refused (3-0)

Abbie Fisher, d/b/a Adventure Academy v. West Virginia Department of Health and Human Resources, 22-ICA-28 (West Virginia Department of Health and Human Resources Board of Review No. 22-BOR-1575)

Order Directing the Parties to File Supplemental Briefing (3-0)