

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**Bayer Corporation,
Employer Below, Petitioner**

v.) **No. 22-949** (JCN: 2019010123)
(Appeal No. 22-ICA-21)

**Charles Virden, decedent, and Mary
Kay Virden, dependent,
Claimants Below, Respondents**

MEMORANDUM DECISION

Petitioner Bayer Corporation appeals the November 15, 2022, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Bayer Corp. v. Virden*, No. 22-ICA-21, 2022 WL 17169073 (W. Va. Ct. App. Nov. 15, 2022) (memorandum decision). Respondents Charles Virden, decedent, and Mary Kay Virden, claimant, filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the July 25, 2022, decision of the West Virginia Workers’ Compensation Board of Review, which reversed the claim administrator’s January 29, 2019, order and granted the claim for death benefits for an occupational disease.

The employer asserts that the Board of Review was clearly wrong in finding that there was a causal connection between the decedent’s exposure to benzene during his employment and his acute myeloid leukemia. The claimant maintains that the employer points to no erroneous procedure, no arbitrary or capricious conclusions, and no abuse of discretion or jurisdictional error by the tribunals below.

This Court reviews questions of law de novo, while we accord deference to the Board of Review’s findings of fact unless the findings are clearly wrong. Syl. Pt. 3, *Duff v. Kanawha Cnty. Comm’n*, No. 23-43, 2024 WL 1715166 (W. Va. Apr. 22, 2024). Upon consideration of the record and briefs, we find no reversible error and therefore summarily affirm. *See* W. Va. R. App. P. 21(c).

Affirmed.

¹ The employer is represented by Timothy E. Huffman, Esq., and the claimant is represented by R. Dean Hartley, Esq. and E. William Harvit, Esq. We note that the employer’s brief was filed by Kristy L. Eiter, Esq. on December 30, 2022. On July 27, 2023, Mr. Huffman filed a notice of change of legal representative for the employer.

ISSUED: June 10, 2024

CONCURRED IN BY:

Chief Justice Tim Armstead
Justice Elizabeth D. Walker
Justice John A. Hutchison
Justice William R. Wooton
Justice C. Haley Bunn