

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

**James E. Stover,**  
**Claimant Below, Petitioner**

v.) **No. 23-23** (JCN: 2019023164)  
(ICA No. 22-ICA-55)

**West Virginia Division of Highways,**  
**Employer Below, Respondent**

**MEMORANDUM DECISION**

Petitioner James E. Stover appeals the November 18, 2022, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Stover v. West Virginia Division of Highways*, No. 22-ICA-55, 2022 WL 17164512 (W. Va. Ct. App. Nov. 18, 2022) (memorandum decision). Respondent West Virginia Division of Highways filed a timely response.<sup>1</sup> The issue on appeal is whether the ICA erred in affirming the decision of the West Virginia Workers’ Compensation Board of Review, which affirmed the claim administrator’s November 20, 2020, order granting the petitioner an award of an additional 5% permanent partial disability for occupational pneumoconiosis.

The petitioner asserts that the Board of Review erred in determining that the Occupational Pneumoconiosis Board’s findings were not clearly wrong and entitled the claimant to an additional award of only 5% permanent partial disability. The employer maintains that the petitioner points to no erroneous procedure, no arbitrary or capricious conclusions, 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.

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<sup>1</sup> The petitioner is represented by counsel Reginald D. Henry and Lori J. Withrow. West Virginia Division of Highways is represented by counsel Alysia Kozlowski.

**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