

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

**Dena Almond,  
Claimant Below, Petitioner**

v.)    **No. 23-365** (JCN: 2019017306)  
          (BOR Appeal No. 2058511)  
          (ICA No. 22-ICA-321)

**West Virginia State Agencies,  
Employer Below, Respondent**

**MEMORANDUM DECISION**

Petitioner Dena Almond appeals the May 1, 2023, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Almond v. West Virginia State Agencies*, No. 22-ICA-321, 2023 WL 3172050 (W. Va. Ct. App. May 1, 2023) (memorandum decision). Respondent West Virginia State Agencies 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 order dated June 14, 2021, granting Ms. Almond a 3% permanent partial disability award.

Ms. Almond asserts that the Board of Review was clearly wrong in finding that she did not prove by a preponderance of the evidence that she sustained more than 3% whole person impairment for her compensable injury. The employer maintains that Ms. Almond 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)*.

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<sup>1</sup> Ms. Almond is represented by counsel Reginald D. Henry and Lori J. Withrow. West Virginia State Agencies is represented by counsel Steven K. Wellman and James W. Heslep.

Affirmed.

**ISSUED: June 10, 2024**

**CONCURRED IN BY:**

Chief Justice Tim Armstead  
Justice Elizabeth D. Walker  
Justice C. Haley Bunn

**DISSENTING:**

Justice John A. Hutchison  
Justice William R. Wooton

Hutchison, Justice and Wooton, Justice, dissenting:

We dissent to the majority's resolution of this case. We would have set this case for oral argument to thoroughly address the error alleged in this appeal. Having reviewed the parties' briefs and the issues raised therein, we believe a formal opinion of this Court was warranted, not a memorandum decision. Accordingly, we respectfully dissent.