



DECISIONS, NOTICES, AND ORDERS

Monday, August 5, 2024

The Intermediate Court of Appeals of West Virginia has taken action in the following cases in the month of July 2024. This list contains only the actions of note taken by the Intermediate Court, not the content or actual date of orders or decisions.

SIGNED OPINION

In accordance with Rule 22, a signed opinion was entered in the following case:

Northeast Natural Energy, LLC, NNE Properties, LLC, Pachira Energy, LLC, and Pachira Energy Holdings, LLC v. LT Realty Unlimited, LLC, 23-ICA-154 and *David Tennant, by and through Deborah Tennant, his Guardian and Conservator, and Yuri Dmitri Popov v. LT Realty Unlimited, LLC*, 23-ICA-155 (Cir. Ct. Monongalia Cnty. No. 18-C-494)
Reversed (3-0)

MEMORANDUM DECISIONS

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

Roger D. Young v. WorkForce West Virginia and Orion Consulting, LLC, 23-ICA-124 (WorkForce West Virginia Board of Review No. R-2022-2417)
Vacated and Remanded (3-0)

Jewell R. Hughey v. James Cagle and Cagle & Jackson, 23-ICA-218 (Cir. Ct. Kanawha Cnty. No. 22-C-159) and *Jewell R. Hughey v. Rod Jackson and Cagle & Jackson*, 23-ICA-219 (Cir. Ct. Kanawha Cnty. No. 22-C-160)
Affirmed, in part, Vacated, in part, and Remanded (2-0) (Judge Greear, not participating)

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R & D Towing, Inc. v. Plaza Insurance Company, 23-ICA-243 (Cir. Ct. Greenbrier Cnty. No. CC-13-2018-C-83)

Affirmed (3-0)

Christopher McMillion and Sarah DeMastus v. Beverly D. Taylor, as Executrix of the Last Will and Testament of Mary E. McMillion, 23-ICA-262 (Cir. Ct. Harrison Cnty. No. 22-C-121-2)

Affirmed (3-0)

Suzanne D. Woods v. Bob Burdette Center, Inc., and WorkForce West Virginia, 23-ICA-295 (WorkForce West Virginia Board of Review No. R-2023-0531)

Affirmed (3-0)

Albert West, Deceased, by Mary Jane West, Administratrix, v. West Virginia Consolidated Public Retirement Board, 23-ICA-306 (Cir. Ct. Kanawha Cnty. No. 22-AA-23)

Affirmed (3-0)

J.F. Allen Company v. Matthew R. Irby, State Tax Commissioner of West Virginia, 23-ICA-327 (West Virginia Office of Tax Appeals No. 21-169)

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

Doug Davisson v. Lewis County Board of Education, 23-ICA-344 (West Virginia Public Employees Grievance Board No. 2021-2488-LewED)

Affirmed (3-0)

Paul T. Chastain, Jr. v. Bethlehem Farm, Inc., and Eric Fitts, 23-ICA-350 (Cir. Ct. Summers Cnty. No. CC-45-2022-C-31)

Affirmed (2-1) (Chief Judge Scarr, dissenting)

Tina W. v. Spencer W., 23-ICA-396 (Fam. Ct. Taylor Cnty. No. 14-D-40)

Affirmed (3-0)

Katie H. v. Paul M., Sr., and Lori M., 23-ICA-483 (Fam. Ct. Berkeley Cnty. No. FC-02-2022-D-619)

Affirmed (3-0)

Tina W. v. Spencer W., 23-ICA-490 (Fam. Ct. Taylor Cnty. No. 14-D-40)

Affirmed (3-0)

Robin Summerbill v. Gene Summerbill, Jr., 23-ICA-494 (Fam. Ct. Jefferson Cnty. No. FC-19-2019-D-315)

Vacated and Remanded with Instructions (3-0)

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Christina F. v. Jason C., 23-ICA-507 (Fam. Ct. Fayette Cnty. No. FC-10-2017-D-186)
Dismissed (3-0)

Siraaj M. v. Stephanie M., 23-ICA-511 (Fam. Ct. Jefferson Cnty. No. FC-19-2011-D-509)
Affirmed (3-0)

In re: E.R., S.R., and J.R., minors, 23-ICA-526 (Fam. Ct. Kanawha Cnty. No. 14-FIG-146)
Remanded with Directions (3-0)

Charlotte Hamilton, Dependent of Carney Hamilton (Deceased) v. Mid-State Mechanical, Inc., and West Virginia Offices of the Insurance Commissioner in its capacity as Administrator of the Old Fund, 23-ICA-533 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Judge Scarr, not participating)

Kaitlyn G. v. Jonathon C., 23-ICA-553 (Fam. Ct. Mercer Cnty. No. FC-28-2021-D-298)
Affirmed (3-0)

Robbie Hatfield v. Wyoming County Commission, 23-ICA-560 (Workers' Compensation Board of Review)
Vacated and Remanded (3-0)

Robin Mullins, Dependent of Everett D. Mullins (Deceased) v. Maple Meadow Mining Company and West Virginia Offices of the Insurance Commissioner in its capacity as Administrator of the Old Fund, 23-ICA-574 (Workers' Compensation Board of Review)
Affirmed (3-0)

The Homer Laughlin China Company v. Kenneth Daugherty, 24-ICA-13 (Workers' Compensation Board of Review)
Affirmed (3-0)

Jason Yost v. ACNR Resources, Inc., 24-ICA-14 (Workers' Compensation Board of Review)
Affirmed (3-0)

Steve A. Dolin v. Ramsey Tire, Inc. d/b/a Tic Toc Tire South, 24-ICA-21 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Judge Scarr, not participating)

James F. Martin v. Eastern Associated Coal, LLC, and West Virginia Offices of the Insurance Commissioner in its capacity as the Administrator of the Old Fund, 24-ICA-27 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Judge Scarr, not participating)

Blackhawk Mining, Inc. v. Archie Caldwell, 24-ICA-31 (Workers' Compensation Board of Review)

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Affirmed (3-0)

James E. Jurak v. Custom Smiles, Inc., 24-ICA-36 (Workers' Compensation Board of Review)
Affirmed (2-0) (Chief Judge Scarr, not participating)

Billy Johnson v. Blackhawk Mining, 24-ICA-37 and 24-ICA-50 (Workers' Compensation Board of Review)
Affirmed (3-0)

Kanawha County Board of Education v. Barbara A. Edwards, 24-ICA-49 (Workers' Compensation Board of Review)
Affirmed (3-0)

West Virginia Division of Corrections and Rehabilitation v. Francis Iacovone, individually, and as Administrator of the Estate of Rocco Iacovone, 23-ICA-148 (Cir. Ct. Kanawha Cnty. No. 20-C-602)
Affirmed, in part, Vacated, in part, and Remanded (3-0)

John Spaur v. Tim Lewis, 23-ICA-170 (Cir. Ct. Upshur Cnty. No. CC-49-2015-C-85) and Tim Lewis v. John Spaur, 23-ICA-178 (Cir. Ct. Upshur Cnty. No. CC-49-2015-C-85)
Affirmed, in part, Vacated, in part, and Remanded with Directions (3-0)

Nick Bajada and Erin Bajada v. Crystal Lake Property Owners' Association, Inc., 23-ICA-292 (Cir. Ct. Jefferson Cnty. No. CC-19-2021-C-5)
Affirmed (3-0)

Julian Lee Green v. Christopher Hood, Lt. Clouston, and David Leddy, 23-ICA-301 (Cir. Ct. Ohio Cnty. No. CC-35-2023-C-AP-9)
Affirmed (3-0)

Julian Lee Green v. Officer B. Hoehn, Officer C. Castilon, Chief Shawn Schwertfeger, and Christopher Hood, Assistant Ohio County Prosecuting Attorney, 23-ICA-310 (Cir. Ct. Ohio Cnty. No. CC-35-2022-C-AP-9)
Affirmed (3-0)

Mia Brown v. West Virginia University, 23-ICA-328 (West Virginia Public Employees Grievance Board No. 2023-0386-WVU)
Affirmed (3-0)

John O'Connor v. Steel of West Virginia, Inc., and WorkForce West Virginia, 23-ICA-364 (WorkForce West Virginia Board of Review No. R-2023-1015)
Affirmed, in part, and Reversed, in part (3-0)

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Julian Lee Green v. Christopher Hood, Assistant Ohio County Prosecuting Attorney, Chief Shawn Schwertfeger, Officer Mitchell, and Officer Miller, 23-ICA-374 (Cir. Ct. Ohio Cnty. No. CC-35-2023-C-AP-3)

Affirmed (3-0)

Occidental Petroleum, successor in interest to Kerr-McGee Corporation v. John L. Tustin and Jonathan A. Tustin, 23-ICA-375 (Cir. Ct. Wetzel Cnty. No. CC-52-2021-P-23)

Affirmed (3-0)

Steven Lee Mengel v. Shelby Banton Mengel, 23-ICA-415 (Fam. Ct. Greenbrier Cnty. No. FC-13-2019-D-192)

Affirmed (3-0)

Katherine A. v. Jerry A., 23-ICA-427 and 23-ICA-462 (Fam. Ct. Ohio Cnty. No. FC-35-2022-D-82)

Affirmed (3-0)

Kizzie Marcum v. Joey Steele and Arbie Thompson, 23-ICA-463 (Cir. Ct. Wayne Cnty. No. CC-50-2023-C-33)

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

Nathan K. v. Tiffany B., 23-ICA-484 (Fam. Ct. Wood Cnty. No. FC-54-2022-D-87)

Vacated and Remanded (3-0)

Ronald E. v. Kelli E., 23-ICA-528 (Fam. Ct. Jefferson Cnty. No. FC-19-2023-D-13)

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

Rodney G. v. Christina G., 23-ICA-539 (Fam. Ct. Jefferson Cnty. No. FC-19-2023-D-26)

Affirmed (3-0)

Suzanne H. v. Lee H., 23-ICA-551 (Fam. Ct. Greenbrier Cnty. No. FC-13-2018-D-153)

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

Thomas M. v. Robyn C., 23-ICA-554 (Fam. Ct. Kanawha Cnty. No. 18-D-10)

Vacated and Remanded (3-0)

Mark Dixon v. Fairfax Mining Company, Inc., and West Virginia Offices of the Insurance Commissioner, in its capacity as administrator of the Old Fund, 23-ICA-567 (Workers' Compensation Board of Review)

Vacated and Remanded with Directions (2-0) (Chief Judge Scarr, not participating)

Leslie Beverly v. Edna Beverly, 23-ICA-575 (Fam. Ct. Wyoming Cnty. No. FC-55-2018-D-155)

Affirmed (3-0)

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Stephen M. Polinski v. Consol Bailey Mine WV, 24-ICA-11 (Workers' Compensation Board of Review)

Affirmed (3-0)

Christopher D. v. Trystin T., 24-ICA-16 (Fam. Ct. Jefferson Cnty. No. FC-19-2022-D-15)

Vacated and Remanded (3-0)

Robyn C. v. Thomas M., 24-ICA-2 (Fam. Ct. Kanawha Cnty. No. 18-D-10)

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

Austin Cecil v. Pepsi-Cola Metropolitan Bottling Co., 24-ICA-53 (Workers' Compensation Board of Review)

Affirmed (3-0)

Wanda Cooper v. Lowes Home Centers, Inc., 24-ICA-55 (Workers' Compensation Board of Review)

Affirmed (3-0)

Angela Hollandsworth v. WorkForce West Virginia, 24-ICA-59 (Workers' Compensation Board of Review)

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

Mildred Joyce Cantrell, Dependent of Spencer Thurman Cantrell (Deceased) v. Adams MFG Co., Inc., 24-ICA-6 (Workers' Compensation Board of Review)

Vacated and Remanded (3-0)

ACNR Resources, Inc. v. Danielle Goff, 24-ICA-72 (Workers' Compensation Board of Review)

Affirmed (3-0)

Murray American Energy, Inc. v. Dustin J. Harsbey, 24-ICA-73 (Workers' Compensation Board of Review)

Affirmed (3-0)

Mohamed A. v. Marwa A., 24-ICA-75 (Fam. Ct. Kanawha Cnty. No. 15-D-1431)

Affirmed (3-0)

RULE 20 ARGUMENT GRANTED

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

A.D.A, as next friend of L.R.A, a minor child under the age of 18 v. Johnson & Johnson, et al., 23-ICA-275 (Cir. Ct. Kanawha Cnty. Mass Litigation Panel No. 22-C-9000 NAS); A.N.C., as next friend of J.J.S., a minor child under the age of 18 v. Johnson & Johnson, et al., 23-ICA-276 (Cir. Ct. Kanawha

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Cnty. Mass Litigation Panel No. 22-C-9000 NAS); Trey Sparks v. Johnson & Johnson, Inc., et al., 23-ICA-307 (Cir. Ct. Kanawha Cnty. Mass Litigation Panel No. 22-C-9000 NAS); and Travis Blankenship, Next Friend and Guardian of Minor Child Z.D.C., et al., v. McKesson Corporation, et al., 23-ICA-287 (Cir. Ct. Kanawha Cnty. Mass Litigation Panel No. 22-C-9000 NAS) (3-0)

West Virginia Mutual Insurance Company v. Steven R. Matulis, M.D., 23-ICA-409 (Cir. Ct. Kanawha Cnty. No. 17-C-748) (3-0)

RULE 19 ARGUMENT GRANTED

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

In re: Expungement of Record of N.B., 23-ICA-430 (Cir. Ct. Cabell Cnty. No. 23-P-51) (3-0)

ORDERS

Orders of note were entered in the following cases:

Inca Miller and William Miller v. Paul A. Blair, M.D., Ghareeb Dental Group, Kayla D. Buchanon, DDS, Mitri A. Ghareed, DDS, Justin Bailey, M.D., and Michael Elmore, M.D., 24-ICA-188 (Cir. Ct. Putnam Cnty. No. CC-40-2024-C-14)
Motion to Dismiss Granted (3-0)

Rebecca M. v. Nathaniel M., 24-ICA-137 (Fam. Ct. Berkeley Cnty. No. FC-02-2016-D-313)
Motion for Stay Refused (3-0)