

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Alvin J. Cook, Jr.,
Claimant Below, Petitioner

v.) **No. 23-632** (JCN: 2016030652)
(ICA No. 23-ICA-153)

Cecil I. Walker Machinery Co.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Alvin J. Cook, Jr. appeals the September 5, 2023, memorandum decision of the Intermediate Court of Appeals (“ICA”). *See Cook v. Cecil I. Walker Mach. Co.*, No. 23-ICA-153, 2023 WL 5696086 (W. Va. Ct. App. Sep. 5, 2023) (memorandum decision). Respondent Cecil I. Walker Machinery Co. filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the Board of Review’s order, which affirmed a claim administrator’s order denying the authorization for a lumbar x-ray and a lumbar MRI.

On appeal, the petitioner argues that the ICA’s memorandum decision affirming the Board of Review was clearly wrong in view of the reliable, probative, and substantial evidence of the whole record, which indicates that he developed radiculopathy as a result of his compensable injury. The petitioner asserts that his condition requires further evaluation, and his request for low back x-rays and an MRI should have been approved because the procedures are medically related and reasonably required to treat his compensable condition. The respondent counters by arguing that the claimant has been treated for low back problems, including radiculopathy and degenerative disc disease, for over thirty years, and the conditions are not causally related to the injury. As such, the petitioner contends that the requested treatment is neither medically necessary nor reasonably required to treat the claimant’s compensable injury in this claim.

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. April 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).

¹ The petitioner is represented by counsel Reginald D. Henry and Lori J. Withrow, and the respondent is represented by counsel Jeffrey B. Brannon.

Affirmed.

ISSUED: September 23, 2024

CONCURRED IN BY:

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