

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Gregory Cavelli,
Claimant Below, Petitioner

v.) **No. 23-495** (JCN: 2020026103)
(ICA No. 23-ICA-77)

AutoZone,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Gregory Cavelli appeals the June 15, 2023, memorandum decision of the Intermediate Court of Appeals (“ICA”). *See Cavelli v. AutoZone*, No. 23-ICA-77, 2023 WL 4025855 (W. Va. Ct. App. June 15, 2023) (memorandum decision). Respondent AutoZone filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the January 30, 2023, order by the Board of Review, which affirmed the claim administrator’s denial of Mr. Cavelli’s request to add cervical disc disorder with radiculopathy as compensable components in the claim.²

On appeal, the petitioner argues that he developed new symptoms following his injury, which demonstrates a clear relationship between his work injury and the subsequently diagnosed cervical disc herniation, which his treating physicians related to his work injury. As such, the petitioner contends that the ICA failed to correct the clearly wrong decision of the Board of Review, which he contends erroneously affirmed the claim administrator’s rejection of the request to add cervical disc disorder with radiculopathy as a compensable condition in his claim. AutoZone contends that the ICA properly affirmed the decision of the Board of Review because the petitioner failed to carry his burden of establishing a causal connection between degenerative cervical disc disorder with radiculopathy and the 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. *See* Syl. Pt. 3, *Duff v. Kanawha Cnty. Comm’n*, --- W. Va. ---, 905 S.E.2d 528 (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 J. Thomas Greene Jr. and T. Colin Greene, and the respondent is represented by counsel Loren C. Allen and Jeffrey B. Brannon.

² The Board of Review also affirmed the claim administrator’s denial of Mr. Cavelli’s request to add degenerative disc disease, but Mr. Cavelli did not appeal that decision to the ICA.

Affirmed.

ISSUED: October 30, 2024

CONCURRED IN BY:

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