

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Granville Sesco,
Claimant Below, Petitioner

v.) **No. 24-280** (JCN: 2018015767)
(ICA No. 23-ICA-489)

Brooks Run South Mining, LLC C/O ANR,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Granville Sesco appeals the March 25, 2024, memorandum decision of the Intermediate Court of Appeals (“ICA”). *See Sesco v. Brooks Run South Mining, LLC*, No. 23-ICA-489, 2024 WL 1276068 (W. Va. Ct. App. Mar. 25, 2024) (memorandum decision). Respondent Brooks Run South Mining, LLC C/O ANR, filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the October 17, 2023, order by the Board of Review, which affirmed the claim administrator’s March 14, 2022, order granting Mr. Sesco a 3% permanent partial disability (“PPD”) award.

On appeal, the petitioner argues that the preponderance of the evidence provides that he sustained more than a 3% whole person impairment due to his compensable injury. The petitioner contends that three of the five evaluating physicians in the record found more than 3% whole person impairment due to his compensable injury, including the employer’s physician, David Soulsby, M.D. Dr. Soulsby noted that the petitioner continues to have trouble with numbness, pain, and grip strength because he did not have excellent results from his carpal tunnel surgeries. Because the majority of the evaluators found more than a 3% impairment, and their reasoning was supported by the evidence of record that the petitioner’s symptoms worsened shortly after his surgeries, the petitioner asserts that the ICA erred in affirming the Board of Review’s decision. The respondent disagrees with the petitioner’s position by arguing that the Board of Review thoroughly weighed all of the evidence of record and found that some portion of the analysis found in the reports rendered by Bruce Guberman, M.D., Robert Walker, M.D., and Dr. Soulsby, represented an outlying opinion unsupported by the other evidence of record. As such, the respondent contends that the ICA’s ruling is consistent with the applicable law and supported by the reliable, probative, and substantial evidence within the record.

¹ The petitioner is represented by counsel Reginald D. Henry, and Lori J. Withrow, and the respondent is represented by counsel Sean Harter.

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*, 250 W. Va. 510, 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).

Affirmed.

ISSUED: February 11, 2025

CONCURRED IN BY:

Chief Justice William R. Wooton

Justice Elizabeth D. Walker

Justice Tim Armstead

Justice C. Haley Bunn

Justice Charles S. Trump IV