

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

**Robin Mullins (claimant), dependent of
Everette D. Mullins (deceased),
Claimant Below, Petitioner**

v.) **No. 24-479** (JCN: 2000034484)
(ICA No. 23-ICA-574)

**Maple Meadow Mining Company,
Employer Below, Respondent, and
West Virginia Offices of the Insurance
Commissioner, in its capacity as
administrator of the Old Fund,
Respondent**

MEMORANDUM DECISION

Petitioner Robin Mullins (“claimant”), dependent of Everette D. Mullins (deceased), appeals the July 1, 2024, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Mullins v. Maple Meadow Mining Co.*, No. 23-ICA-574, 2024 WL 3252638 (W. Va. Ct. App. July 1, 2024) (memorandum decision). Respondent West Virginia Offices of the Insurance Commissioner (“WVOIC”), in its capacity as administrator of the Old Fund, filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the December 12, 2023, decision of the West Virginia Workers’ Compensation Board of Review, which affirmed the claim administrator’s October 29, 2021, order denying the claimant’s claim for death benefits for occupational pneumoconiosis. Prior to the denial of death benefits, the claim administrator referred the claim to the Occupational Pneumoconiosis Board (“OP Board”), which (1) found that the decedent died because of a neurological event or complication during the decedent’s September 2020 heart bypass surgery; (2) attributed the decedent’s chronic obstructive pulmonary disease (“COPD”) to cigarette smoking; and (3) concluded that occupational pneumoconiosis did not materially contribute to the decedent’s death.

The claimant asserts that the OP Board clearly erred in attributing COPD to the decedent’s history of cigarette smoking because the decedent stopped smoking over ten years before his death.

¹ The claimant is represented by counsel Reginald D. Henry and Lori J. Withrow, and WVOIC is represented by counsel Sean Harter. The employer, Maple Meadow Mining Company, did not file a response.

WVOIC counters by arguing that the OP Board was not clearly wrong in finding that the decedent's death was caused by complications during his September 2020 heart bypass surgery and that occupational pneumoconiosis did not materially contribute to his death.² Therefore, WVOIC argues that this Court should affirm the ICA's affirmation of the Board of Review's decision upholding the denial of death benefits for occupational pneumoconiosis.

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: April 22, 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

² At a September 2023 hearing, the OP Board testified that, based upon medical charts, the decedent had a "significant smoking history" consisting of one to three packs per day for up to forty years.