

**IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA**

**CARMEL L. STACY,  
Claimant Below, Petitioner**

**v.) No. 24-ICA-418** (JCN: 2024011001)

**CORONADO COAL CORPORATION,  
Employer Below, Respondent**

**FILED  
June 6, 2025**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK  
INTERMEDIATE COURT OF APPEALS  
OF WEST VIRGINIA

**MEMORANDUM DECISION**

Petitioner Carmel L. Stacy appeals the September 23, 2024, order of the Workers' Compensation Board of Review ("Board"). Respondent Coronado Coal Corporation ("CCC") filed a response.<sup>1</sup> Mr. Stacy did not reply. The issue on appeal is whether the Board erred in affirming the claim administrator's order, which rejected the claim.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2024). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the Board's order is appropriate under Rule 21 of the Rules of Appellate Procedure.

Mr. Stacy filed an Employees' and Physicians' Report of Occupational Injury or Disease dated December 8, 2023, alleging that he suffered an injury to his right knee on November 17, 2023, when he twisted his knee while getting out of a "buggy" in a coal mine operated by CCC. A medical provider signed the physician's section on December 8, 2023, and opined that Mr. Stacy twisted his right knee as a direct result of an occupational injury.

On November 17, 2023, Mr. Stacy was seen at Logan Regional Medical Center Emergency Department, for right leg swelling and knee pain. Mr. Stacy did not report a mechanism of injury. Mr. Stacy reported that he was at work when his knee started to hurt and it gradually worsened. An x-ray of the knee revealed a small joint effusion and no acute fracture or dislocation. The assessment was right knee pain.

Mr. Stacy was seen at Three Rivers Medical Center on November 19, 2023. Mr. Stacy presented with knee pain and reported that the symptoms began the week previous.

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<sup>1</sup> Mr. Stacy is represented by Edwin H. Pancake, Esq. CCC is represented by Steven K. Wellman, Esq., and James W. Heslep, Esq.

According to the medical report, there was no known injury. The diagnosis was right knee effusion. An x-ray of the right knee revealed a small joint effusion and no acute fracture. Mr. Stacy followed up at Three Rivers Medical Center on November 25, 2023. Mr. Stacy presented with right knee pain due to a knee injury at work, and he reported that the knee injury occurred two weeks ago. The diagnosis was unspecified internal derangement of the right knee.

On December 22, 2023, the claim administrator issued an order rejecting the claim due to inconsistencies in Mr. Stacy's statements. Mr. Stacy was given off work slips from providers at Pikeville Medical Center dated December 6, 2023, and January 22, 2024, indicating that Mr. Stacy was to remain off work until February 8, 2024. Mr. Stacy was seen at Pikeville Medical Center on January 22, 2024, for right knee pain. The assessment was right knee internal derangement.

Mr. Stacy was deposed on February 26, 2024, and testified that he arrived at work on November 17, 2023, and the injury occurred roughly an hour into his shift. Mr. Stacy further testified that while checking the backup curtains, he twisted his knee when he stepped on a lump of coal while getting off the buggy. Mr. Stacy stated that the medical records dated November 17, 2023, indicating that the injury occurred in the early morning hours were inaccurate. Mr. Stacy testified that he told the medical providers at the emergency room that he twisted his knee. Mr. Stacy further testified that he had no problems with his right knee prior to going to work on November 17, 2023. Mr. Stacy also testified that the main safety guy with CCC tried to encourage him not to report the injury as a work injury. Mr. Stacy stated that he was diagnosed with a meniscus tear and underwent surgery on January 26, 2024.

On September 23, 2024, the Board affirmed the claim administrator's order rejecting the claim. The Board found that Mr. Stacy was not credible, and that he had failed to establish that he suffered a discrete new injury in the course of and resulting from his employment. Mr. Stacy now appeals the Board's order.

Our standard of review is set forth in West Virginia Code § 23-5-12a(b) (2022), in part, as follows:

The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:

- (1) In violation of statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the Board of Review;
- (3) Made upon unlawful procedures;
- (4) Affected by other error of law;
- (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Duff v. Kanawha Cnty. Comm'n*, 250 W. Va. 510, 905 S.E.2d 528 (2024).

Mr. Stacy argues that there is sufficient evidence to establish that he suffered an injury in the course of and resulting from his job. Mr. Stacy further argues that he did not initially report the injury because he was concerned about his job. Finally, Mr. Stacy argues that the statements made by CCC's management personnel can be interpreted as dissuading him from filing a claim, leading to his concern regarding his job.<sup>2</sup>

Three elements must coexist in workers' compensation cases to establish compensability: (1) a personal injury (2) received in the course of employment and (3) resulting from that employment. *Barnett v. State Workmen's Comp. Comm'r*, 153 W. Va. 796, 172 S.E.2d 698 (1970); *Sansom v. Workers' Comp. Comm'r*, 176 W. Va. 545, 346 S.E.2d 63 (1986).

Here, the Board determined that Mr. Stacy failed to establish that he suffered an injury in the course of and resulting from his employment. The Board found that Mr. Stacy was not credible due to the inconsistencies in his statements and the medical records. Further, the Board found that the evidence does not support a finding of a compensable injury in this claim.

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<sup>2</sup> CCC submitted written or typed statements from three alleged witnesses into the below record: the first dated November 17, 2023, signed by John Brown; the second dated November 27, 2023, signed by Tom Canterbury; and the third undated statement was signed by Wayne Cooper. While it is likely that these witnesses are employees of CCC, their employment is not confirmed in the record and their titles and duties are not made clear from the record. The three statements allege that Mr. Stacy reported knee pain, but he denied any isolated event causing the injury. The statements further allege that Mr. Stacy was encouraged to seek medical attention and informed that it could not be under workers' compensation without an isolated event being identified as causing the injury. After a review of these statements, we find no merit in Mr. Stacy's assertion that he was discouraged from filing a workers' compensation claim by CCC.

Upon review, we cannot conclude that the Board was clearly wrong in finding that Mr. Stacy failed to establish that he suffered an injury in the course of and resulting from his employment. The Board specifically found that Mr. Stacy was not credible, and we must defer to that determination. *See Martin v. Randolph Cnty Bd. of Educ.*, 195 W. Va. 297, 306, 465 S.E.2d 399, 408 (1995) (“We cannot overlook the role that credibility places in factual determinations, a matter reserved exclusively for the trier of fact. We must defer to the ALJ’s credibility determinations and inferences from the evidence . . .”).

Further, as the Supreme Court of Appeals of West Virginia has set forth, “[t]he ‘clearly wrong’ and the ‘arbitrary and capricious’ standards of review are deferential ones which presume an agency’s actions are valid as long as the decision is supported by substantial evidence or by a rational basis.” Syl. Pt. 3, *In re Queen*, 196 W. Va. 442, 473 S.E.2d 483 (1996). With this deferential standard of review in mind, we cannot conclude that the Board was clearly wrong in affirming the claim administrator’s order which rejected the claim.

Accordingly, we affirm the Board’s September 23, 2024, order.

Affirmed.

**ISSUED:** June 6, 2025

**CONCURRED IN BY:**

Chief Judge Charles O. Lorensen  
Judge Daniel W. Greear  
Judge S. Ryan White