

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

**Cynthia Griffith, dependent
of James Griffith (deceased),
Claimant Below, Petitioner**

v.) No. 26-221 (JCN: 2017006796)
(ICA No. 25-ICA-357)

**Alpha Natural Resources, Inc.,
Employer Below, Respondent**

MEMORANDUM DECISION

Petitioner Cynthia Griffith, the dependent of James Griffith (deceased), appeals the February 27, 2026, memorandum decision of the Intermediate Court of Appeals (“ICA”). *See Griffith v. Alpha Nat. Res., Inc.*, No. 25-ICA-357, 2026 WL 688358 (W. Va. Ct. App. Feb. 27, 2026) (memorandum decision). Respondent Alpha Natural Resources filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the Board of Review’s order dated August 8, 2025, which affirmed the claim administrator’s June 30, 2023, order rejecting Mrs. Griffith’s application for fatal dependent’s benefits. The claim administrator denied the claim for benefits based upon the Occupational Pneumoconiosis Board’s (“OP Board”) May 16, 2023, finding that occupational pneumoconiosis (“OP”) was not a material contributing factor in Mr. Griffith’s death. We determine that oral argument is unnecessary and that a memorandum decision summarily affirming the dismissal of the petitioner’s claim is appropriate. *See* W. Va. R. App. P. 21(c).

On appeal, the claimant argues that the ICA erred in concluding that the Board of Review was not clearly wrong in determining that the claimant is not entitled to OP fatal benefits. West Virginia Code § 23-4-10 provides that the OP Board shall determine whether a person died from OP; however, OP does not have to be the exclusive cause of death, but simply contribute in any material degree to the death of the decedent. *See Bradford v. Workers’ Comp. Comm’r*, 185 W. Va. 434, 408 S.E.2d 13 (1991). Although the OP Board found that the record does not show that OP was a material contributor to Mr. Griffith’s death, the claimant argues that the actual medical evidence is replete with evidence to the contrary. The claimant asserts that the record contains a documented history of exposure to hazardous occupational dust, the consistent diagnosis of OP across multiple medical providers, and the OP Board’s own testimony revealing that the decedent suffered from OP. The claimant argues that it was clear error for the OP Board and, in turn, the

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

Board of Review to disregard the decedent's extensive dust exposure, clinical and radiographic indicia of OP, and consistent diagnosis of OP to find that OP did not contribute to his premature death. On appeal, the claimant seeks a reversal of the ICA's decision dated February 27, 2026, and the authorization for dependent's benefits in the claim.

The employer counters by arguing that the decedent passed away on December 20, 2021, with heart disease noted as the cause of death. Furthermore, the OP Board found that OP was not a material contributing factor in the decedent's death. As a result, by order dated June 30, 2023, the claimant's application for dependent's benefits was denied. The employer submitted the December 3, 2024, report of James Roggli, M.D., professor of Pathology at Duke University Health System, who opined that the decedent's death was related to chronic cardiac insufficiency with a contribution from pulmonary disease caused by chronic passive congestion. Because the OP Board ultimately determined that all of the claimant's evidence was consistent with cardiac disease, the Board of Review correctly concluded that the claim administrator properly denied the claimant's application for dependent's benefits. As such, the employer argues that the ICA's memorandum decision affirming the Board of Review's decision should be affirmed.

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: August 25, 2026

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick

DISSENTING:

Justice James W. Flanigan

Flanigan, Justice, dissenting:

I dissent to the majority's resolution of this case. I would have set this case for oral argument to thoroughly address the error alleged in this appeal. Having reviewed the parties' briefs and the issues raised therein, I believe a formal opinion of this Court was warranted, not a memorandum decision. Accordingly, I respectfully dissent.