

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

**RYAN HILL,
Claimant Below, Petitioner**

v.) No. 26-ICA-99 (JCN: 2024018125)

**MARSHALL COUNTY COAL RESOURCES,
Employer Below, Respondent**

FILED
September 25, 2026
ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Ryan Hill appeals the February 12, 2026, order of the Workers' Compensation Board of Review ("Board"), which affirmed the claim administrator's order and found Mr. Hill was not entitled to an award of permanent partial disability ("PPD"). Respondent Marshall County Coal Resources ("Marshall County Coal") filed a response.¹ Mr. Hill did not file a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). 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 West Virginia Rules of Appellate Procedure.

On April 12, 2024, Mr. Hill presented to Wheeling Hospital's emergency department with head and neck pain. He reported that he was operating heavy equipment while working in a coal mine when he was struck in the head the previous day. According to the treatment note, Mr. Hill woke up that morning dizzy and sensitive to light. Mr. Hill underwent an x-ray of his chest, which was negative; a CT of the cervical spine, which revealed mild C4-C5 and C5-C6 degenerative disc disease and no acute fracture; and a CT of the brain, which revealed no acute findings. On that same date, Mr. Hill submitted an Employees' and Physicians' Report of Occupational Injury or Disease stating he was working for Marshall County Coal on April 11, 2024, when he injured multiple parts of his body when he was pinned into the corner of the cab. The physician's portion was signed by medical personnel at Wheeling Hospital's emergency department and stated Mr. Hill sustained a concussion and chest wall contusion as a direct result of an occupational injury.

¹ Mr. Hill is represented by J. Thomas Greene, Jr., Esq., and T. Colin Greene, Esq. Marshall County Coal is represented by Aimee M. Stern, Esq.

Mr. Hill was seen by Charles C. Milton, D.O., from April 24, 2024, through August 14, 2024. During his April 24, 2024, visit, Mr. Hill complained of headaches, neck discomfort and stiffness, dizziness, chronic ringing in his ears, and sensitivity to light. The impression was an underground motor vehicle accident, closed head injury, concussion symptoms, a history of previous closed head injury with concussion, cervical strain, and right-hand contusion. Dr. Milton noted that Mr. Hill suffered a previous head and neck injury on July 25, 2022, and was diagnosed with a scalp contusion, closed head trauma with evidence of post concussive syndrome, and cervicgia as a generator of headaches. On July 10, 2024, Dr. Milton noted that Mr. Hill's neurologist, Michael Ebbert, D.O., recommended speech therapy and continued myofascial and vestibular physical therapy, and Dr. Milton agreed with that recommendation. On August 14, 2024, Mr. Hill reported significant improvement with his headaches and only occasional sensitivity to light. Dr. Milton noted that he was returning to his baseline and released him to return to work on August 19, 2024.

On April 25, 2024, the claim administrator entered an order holding the claim compensable for a contusion of the unspecified front wall of the thorax and a concussion without loss of consciousness. The claim administrator granted Mr. Hill temporary total disability benefits from April 12, 2024, through April 29, 2024.

Mr. Hill was seen by Dr. Ebbert from the WVU Department of Neurology, from May 6, 2024, through August 13, 2024. On May 6, 2024, Mr. Hill sought further evaluation of his cranio-cervical trauma following his workplace injury and described his current symptoms as daily headaches, photophobia, phonophobia, nausea, neck pain, numbness in the bilateral shoulder region, dizziness, blurred vision, bilateral tinnitus, memory dysfunction, chronic anxiety, and poor sleep. Dr. Ebbert assessed cervical paraspinal muscle spasm, cervicogenic headache, occipital neuritis, concussion without loss of consciousness, neck pain, post-traumatic headache, and sleep disturbance, and ordered physical therapy to address the cervical paraspinal muscle spasm, concussion without loss of consciousness, and neck pain.

In addition, Mr. Hill reported that he suffered prior head injuries in April of 2022 as a result of a UTV accident and in July of 2022 as a result of being struck in the head by a steel beam while working in the coal mines. Mr. Hill reported he was fully recovered from those injuries prior to his workplace injury on April 11, 2024. At his June 27, 2024, and August 13, 2024, appointments, Mr. Hill reported that he was improving and recovering well, and Dr. Ebbert assessed neck pain and cervicogenic headache. Dr. Ebbert further noted that Mr. Hill had returned to his baseline and was ready to return to work.

On August 5, 2024, Gerald Steiman, M.D., issued a report based on an independent medical evaluation ("IME"), which was performed at the request of the claim administrator. Mr. Hill presented with headaches, lightheadedness, dizziness, numbness and tingling of his extremities, rare nausea, constant light sensitivity, ringing in both ears,

reduced memory, intermittent neck pain radiating distally to the low back, and tingling in his fingers and toes. Dr. Steiman opined that Mr. Hill reached maximum medical improvement (“MMI”) related to the compensable concussion without loss of consciousness and the contusion of the unspecified front wall of the thorax. Utilizing the AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition (“the Guides”), he further opined that Mr. Hill had a 0% whole person impairment (“WPI”).

On August 7, 2024, the claim administrator held that Mr. Hill was not entitled to a PPD award based on Dr. Steiman’s IME. Mr. Hill protested this order. On May 16, 2025, Joseph E. Grady II, M.D., performed an IME at the request of Mr. Hill and opined that Mr. Hill had reached MMI related to his compensable injuries.² Using the Guides, Dr. Grady determined that the contusion of the unspecified front wall of the thorax had resolved and there was no ratable impairment for resolved contusions. Dr. Grady opined that Mr. Hill had some residual post-concussion syndrome related to his compensable concussion without loss of consciousness, but he noted that the Guides do not provide a ratable impairment for headaches from a post-concussion syndrome. Finally, he recommended a 2% impairment under the Guides for Mr. Hill’s reported bilateral tinnitus, which had been present since the compensable injury.

On February 12, 2026, the Board entered an order affirming the claim administrator’s August 7, 2024, order and found that the preponderance of the evidence showed Mr. Hill was not entitled to an award of PPD for his compensable injuries. It is from this order that Mr. Hill now appeals.

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;

² Mr. Hill’s appendix includes his deposition transcript, but it is not listed in the record considered by the Board or discussed in the Board’s February 12, 2026, order. Based on the record before this Court, we find that Mr. Hill’s deposition transcript was not in the record considered by the Board and will not be considered on appeal.

- (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).

On appeal, Mr. Hill asserts one assignment of error and argues the Board was clearly wrong in finding he was not entitled to an award of PPD because the evidence of record demonstrates that his tinnitus was a result of his compensable concussion. We disagree. “This Court will not reverse a finding of fact made by the Workmen’s Compensation Appeal Board unless it appears from the proof upon which the appeal board acted that the finding is plainly wrong.” *Plummer v. Worker’s Comp. Div.*, 209 W. Va. 710, 712, 551 S.E.2d 46, 48 (2001) (citing Syl. Pt., *Rushman v. Lewis*, 173 W. Va. 149, 313 S.E.2d 426 (1984)). Further, the plainly wrong standard “presumes an administrative tribunal’s actions are valid as long as the decision is supported by substantial evidence.” *Duff v. Kanawha Cnty. Comm’n*, 247 W. Va. 550, 555, 882 S.E.2d 916, 921 (Ct. App. 2022), *rev’d on other grounds*, 250 W. Va. 510, 905 S.E.2d 528 (2024). In addition, the Supreme Court of Appeals of West Virginia (“SCAWV”) has recognized that “most of the probative value of a medical opinion comes from its reasoning.” *Duff v. Kanawha Cnty. Comm’n*, 250 W. Va. 510, 520, 905 S.E.2d 528, 538 (2024) (quoting *Nieves-Rodriguez v. Peake*, 22 Vet. App. 295, 304 (2008)). “Medical reports without reasoning and rationale are conclusory and perforce lack probative value.” *Id.*

In this case, the Board’s order found Dr. Grady’s report to be improper and unpersuasive because he did not provide a rationale for his impairment rating for tinnitus. The Board noted that tinnitus may be a symptom here, but it is not a compensable condition in this claim, and Dr. Steiman’s report stated that Mr. Hill experienced tinnitus prior to his workplace injury. The Board further found Dr. Steiman’s report to be credible and noted that he rated the compensable conditions in the claim, which are a contusion of the thorax wall and a concussion without loss of consciousness. As a result, the Board determined that the findings outlined by Dr. Steiman were more persuasive, and Mr. Hill has failed to rebut these findings.

The Board was not clearly wrong when it declined to adopt Dr. Grady’s conclusion that Mr. Hill has a 2% impairment for tinnitus. The Board correctly noted that Mr. Hill was treated for tinnitus by Dr. Ebbert prior to the compensable injury. Dr. Ebbert’s May 6, 2024, treatment describes Mr. Hill complaining of tinnitus in January, February, and March of 2023. Dr. Steiman also reviewed Dr. Milton’s treatment records from 2022 and noted that on August 5, 2022, Mr. Hill complained of ringing in his ears. Finally, when Dr. Milton examined Mr. Hill on April 24, 2024, he wrote that Mr. Hill “[h]as chronic ringing in his ears.” Dr. Grady did not address Mr. Hill’s prior diagnoses of tinnitus. The Board was also

not clearly wrong when it concluded that Dr. Grady did not provide sufficient reasoning regarding how he determined Mr. Hill had a 2% impairment pursuant to Section 9.1 of the Guides.³

As the SCAWV 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 finding that Dr. Steiman’s report was more persuasive and that Mr. Hill was not entitled to a PPD award.

Accordingly, we affirm the Board’s February 12, 2026, order.

Affirmed.

ISSUED: September 25, 2026

CONCURRED IN BY:

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

³ We decline to adopt the Board’s conclusion that tinnitus from a compensable concussion cannot be evaluated for impairment without it first being recognized as a compensable condition.