IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED
November 10, 2026
ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

ADAMS MANUFACTURING COMPANY, INC.,
Employer Below, Petitioner

v.) No. 26-ICA-146 (JCN: 2021006494)

MILDRED J. CANTRELL, DEPENDENT OF
SPENCER T. CANTRELL, DECEASED,
Claimant Below, Respondent

MEMORANDUM DECISION

Petitioner Adams Manufacturing Company, Inc. ("Adams") appeals the March 16, 2026, decision of the Workers' Compensation Board of Review ("Board"). Respondent Mildred J. Cantrell timely filed a response. Adams filed a reply.[1] The issue on appeal is whether the Board erred in reversing the claim administrator's order and holding the claim compensable for fatal dependents' benefits.

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.

Mr. Cantrell died on October 31, 2020, and his widow, Mrs. Cantrell, filed a workers' compensation claim for dependent benefits. Mrs. Cantrell claimed that occupational asbestos exposure was a contributing factor to Mr. Cantrell's death from mesothelioma. By order dated July 20, 2021, the claim administrator denied the claim for dependent benefits on the basis that Mrs. Cantrell's application did not include a specific date of last exposure and did not include the necessary exposure information connecting mesothelioma to the workplace versus exposures at a different location.

We note the procedural history of Mrs. Cantrell's claim. Mrs. Cantrell protested the claim administrator's order to the Board, and it issued an order dated December 8, 2023, affirming the claim administrator's denial of the claim. Mrs. Cantrell appealed the Board's order to this Court. On July 30, 2024, this Court vacated and remanded the Board's order for further proceedings, finding that the Board used the standards applicable to an

[1] Petitioner is represented by T. Jonathan Cook, Esq. Respondent is represented by R. Dean Hartley, Esq.

occupational pneumoconiosis ("OP") claim instead of the standards appropriate for an occupational disease claim. We found that Mrs. Cantrell filed her claim for benefits related to Mr. Cantrell's mesothelioma as an occupational disease and not OP. *See Cantrell v. Adams Mfg. Co., Inc.*, No. 24-ICA-6, 2024 WL 3594334 (W. Va. Ct. App. July 30, 2024) (memorandum decision). On remand, the Board reviewed the issue as an occupational disease claim and found that Mrs. Cantrell established that her husband's death was caused by mesothelioma that developed in the course of and resulting from his employment. Thus, the Board ordered that Mrs. Cantrell be granted dependent benefits.

Prior to issuing its order, the Board reopened the record in the protest, and the parties submitted additional evidence. The record indicates that on May 7, 2020, Mr. Cantrell underwent a right lung biopsy. Sara E. Monaco, M.D., authored the cytopathology report in which she diagnosed malignant mesothelioma. On August 3, 2020, a radiologist reviewed Mr. Cantrell's chest CT and found a right mid and upper chest mass with destruction of several upper ribs, "certainly compatible with mesothelioma."

In a typewritten statement dated August 2, 2020, Mr. Cantrell stated that he worked from 1974 to 1992 at J&S Mining ("J&S"), which later became Mountaineer Mining Service ("Mountaineer"). Mr. Cantrell recounted that while employed by J&S/Mountaineer, he was an industrial electrician and performed the duties of a welder. Mr. Cantrell recalled that he worked on Joy Manufacturing Company equipment "all the time." He also reported that from 1993 to 2012, he continued his "work career in the same capacity" when he was employed by Adams. Mr. Cantrell indicated that work duties at Adams were the same as in his prior work as he continued to work on conventional mining equipment – although he noted the majority of his work at Adams was on longwall mining equipment. His job duties included building, rebuilding, and repairing mining equipment. Mr. Cantrell noted that during his employment, he frequently worked on Joy Manufacturing miners, cutting machines, and shuttle cars. Further, Mr. Cantrell stated that he recalled working with known asbestos products in his work, including packing and mining cables, and brakes. According to Mr. Cantrell, he also worked with asbestos-containing construction materials and brakes at home.

Mr. Cantrell testified at a deposition on September 10, 2020, and September 11, 2020.[2] Mr. Cantrell testified about his employment history at J&S and Mountaineer. Mr. Cantrell testified that he worked on braking systems and control boxes which contained asbestos. In particular, he discussed how the cables in the control boxes or packing glands contained asbestos. Mr. Cantrell noted that he worked extensively on equipment made by the Joy Manufacturing Company. According to Mr. Cantrell, the internal wiring and packing glands in equipment made by Joy contained asbestos. Mr. Cantrell also testified

[2] This deposition was taken for litigation brought by the Cantrells against Joy Global Underground Mining, LLC, f/k/a Joy Technologies, LLC, a Pennsylvania Corporation, et al. in a case brought in the circuit court of Marshall County, West Virginia.

that the cables in S&S manufactured control boxes had asbestos, and he recalled that Rockbestos also manufactured similar cables containing asbestos.

Mrs. Cantrell included in the record a Joy Manufacturing Company parts catalog that listed asbestos packing and packing glands for some equipment. Mrs. Cantrell also submitted a document filed by Joy Technologies, Inc. ("Joy") in civil asbestos litigation brought by plaintiffs other than the Cantrells in Kanawha County Circuit Court. In Joy's Objections and Answers to Plaintiff's Interrogatories and Requests for Production of Documents to All Defendants, the company noted that some of the shuttle cars, continuous miners, and mobile loaders it manufactured "may potentially have included some limited asbestos containing component parts." Namely, Joy mentioned a rope or packing material containing asbestos was used in a gland assembly as part of an explosion-proof box for use in underground coal mines. The rope packing material, it said, would be inserted or stuffed into the metal packing gland assembly. Further, the company believed that brake pads on some shuttle cars contained asbestos. Joy also noted that the Rockbestos company may have manufactured some asbestos-containing cable used in continuous miners.

On May 12, 2021, Nasir A. Khan, M.D., reviewed Mr. Cantrell's medical records and provided a report. Dr. Khan stated that Mr. Cantrell was seventy-five years old at the time of his diagnosis of a right apical pleural mass biopsy that was proven to represent a malignant mesothelioma. Asbestos exposure, Dr. Khan said, is the only medically accepted cause of diffuse malignant mesothelioma in individuals in this country who have not received radiation treatment at the site of a tumor. Dr. Khan opined that Mr. Cantrell was likely exposed to airborne asbestos fibers and asbestos-containing products throughout the course of his employment as an industrial electrician/mechanic and friction work, and when performing home repair. Further, Dr. Khan opined that every type of asbestos fiber causes malignant mesothelioma and that there is no safe level of occupational exposure to asbestos at which mesothelioma will not occur in humans. Dr. Khan also noted that each exposure to asbestos is injurious. Finally, Dr. Kahn noted that smoking was not a primary, secondary, or contributing cause of malignant mesothelioma.

In an affidavit dated September 10, 2022, James "Jack" Cantrell, Mr. Cantrell's brother, stated that he worked with Mr. Cantrell at Adams for approximately fourteen years as Mr. Cantrell's supervisor, and he previously worked with Mr. Cantrell at Mountaineer Mining Service. Jack Cantrell further stated that when Mr. Cantrell rebuilt shuttle cars, he rewired them and had to repack the asbestos, and that the process created a great deal of dust. Jack Cantrell further stated that Mr. Cantrell breathed in the dust. Jack Cantrell said they routinely and regularly used Rockbestos packing, which contained asbestos. Additionally, Jack Cantrell said that Mr. Cantrell also worked on pumps and motors and would grind parts, which created dust.

Adams submitted the affidavit of Mickey Cline, dated August 28, 2023. Mr. Cline worked as a shop foreman for Adams from 2001 to 2003, and 2007 to 2014. Mr. Cline

stated that he was unaware of asbestos being present in the facility. Mr. Cline also stated that he was unaware of any citation by OSHA for particulates in the air at the facility.

On July 24, 2025, Jack Cantrell testified at a video deposition. Jack Cantrell testified that he retired at age seventy-two. Jack Cantrell said he worked with his brother, Mr. Cantrell, building mining equipment. He noted that he worked with his brother at J&S, which later became Mountaineer, and then they worked together at Adams until the shop closed. Jack Cantrell said that, at Adams, Mr. Cantrell welded, made aluminum boxes, and built and repaired starter boxes for equipment. He noted that Mr. Cantrell would use his hands and tools to remove rope coils containing asbestos from packing glands, and after the repair, he would push them back in. Other work performed by Mr. Cantrell, according to his brother, included rebuilding starters, which also had asbestos around the wiring. He also noted that a normal part of the process included blowing out the box, which caused dust to come out. Although Jack Cantrell noted that Mr. Cantrell worked on the brakes, he did not think they contained asbestos. Later in his testimony, when Jack Cantrell was asked how often his brother worked with asbestos wire and packing, he responded, "I don't know much about all that asbestos stuff. All I can tell you is this, we packed a few boxes up like that." Then, Jack Cantrell added that he believed his brother "caught a lot of that asbestos and acid stuff" during his military service. Jack Cantrell said that in building, rebuilding, and repairing the mining equipment at Adams, Mr. Cantrell would have been exposed to asbestos "[a] little bit" and that his previous work at Mountaineer and J&S was the same regarding asbestos exposure. Jack Cantrell said that he was only aware of asbestos in the rope-like packing in the glands; he added that his brother would use his hands to roll the rope and cut it to the desired length. Near the end of his testimony, Jack Cantrell clarified that asbestos wasn't "all over the place" but he did use the material quite a bit, and he did not differentiate the asbestos exposure between Adams and the prior employers.

On November 2, 2020, Kelly Pitsenbarger, M.D., completed a death certificate finding that Mr. Cantrell died on October 31, 2020, from a malignant neoplasm of the lung.

In its December 8, 2023, order, the Board misconstrued this claim as an OP-based claim for benefits. The Board noted that the Supreme Court of Appeals of West Virginia ("SCAWV") had found that in order to maintain a claim for OP, the "hazard" contemplated by West Virginia Code § 23-4-1(b) (2024) consisted of "any condition where it can be demonstrated that there are minute particles of dust in abnormal quantities in the work area." The Board also cited *Fletcher v. W. Va. Off. of Ins. Comm'r*, No. 11-0404, 2012 WL 5471438, *1 (W. Va. Oct. 31, 2012) (memorandum decision), in which the SCAWV, referring to its holding in *Sluss v. Workers' Comp. Comm'r*, 174 W. Va. 433, 436, 327 S.E.2d 413, 415 (1985), said it,

> rejected the proposition that a claimant can demonstrate exposure merely by employment at a dusty location, such as a mine site, and reiterated the holding in *Meadows* that a claimant must demonstrate the presence of a

hazard through a showing that "minute particles of dust exist in abnormal quantities in the work area."[3]

By order of July 30, 2024, this Court vacated and remanded the Board's December 8, 2023, order for further proceedings. We noted that Mrs. Cantrell filed her claim for dependent benefits as an occupational disease claim based on Mr. Cantrell's mesothelioma; thus, we found that the Board should apply the six factors set forth in West Virginia Code § 23-4-1(f) to the issue.[4]

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[3] The Court refers to *Meadows v. Workmen's Comp. Comm'r*, 157 W. Va. 140, 143, 198 S.E.2d 137, 139 (1973).

[4] West Virginia Code § 23-4-1(f) provides as follows:

> For the purposes of this chapter, occupational disease means a disease incurred in the course of and resulting from employment. No ordinary disease of life to which the general public is exposed outside of the employment is compensable except when it follows as an incident of occupational disease as defined in this chapter. Except in the case of occupational pneumoconiosis, a disease is considered to have been incurred in the course of, or to have resulted from, the employment only if it is apparent to the rational mind, upon consideration of all the circumstances: (1) That there is a direct causal connection between the conditions under which work is performed and the occupational disease; (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (3) that it can be fairly traced to the employment as the proximate cause; (4) that it does not come from a hazard to which workmen would have been equally exposed outside of the employment; (5) that it is incidental to the character of the business and not independent of the relation of employer and employee; and (6) that it appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction: Provided, That compensation is not payable for an occupational disease or death resulting from the disease unless the employee has been exposed to the hazards of the disease in the State of West Virginia over a continuous period that is determined to be sufficient, by rule of the Insurance Commissioner and Industrial Council, for the disease to have occurred in the course of and resulting from the employee's employment. An application for benefits on account of an occupational disease shall set forth the name of the employer or employers and the time worked for each. The commission may allocate to and divide any charges resulting from the claim among the employers by

As noted above, upon remand, the Board issued an order dated March 16, 2026, holding that Mrs. Cantrell established by a preponderance of the evidence that Mr. Cantrell developed mesothelioma in the course of and resulting from his employment with the employer, and that his death was due to mesothelioma. Thus, the Board reversed the claim administrator's order and ruled that dependent benefits should be granted. Adams 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:
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> (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).

On appeal, Adams argues that the Board's decision cannot withstand scrutiny because it rests on speculation rather than evidence.[5] Specifically, Adams contends that "the record contains no proof asbestos was present in abnormal quantities at [Adams]" and there is "no medical opinion linking the disease to that employer as opposed to numerous alternative sources." Adams also contends that Mr. Cantrell and Jack Cantrell did not identify asbestos exposure specific to Adams, although Mr. Cantrell provided detailed testimony about his exposure at his prior workplaces, and Mr. Cline established that asbestos was not known to be present in the facility. Finally, Adams argues that the medical

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> whom the claimant was employed. The allocation shall be based upon the time and degree of exposure with each employer.

[5] We note that Adams does not provide any assignments of error but merely provides an argument section in its brief and reply. *See* Rule 10(c)(3) of the West Virginia Rules of Appellate Procedure (2022).

evidence did not support the Board's conclusion, as Dr. Khan did not identify Adams as a causative source of Mr. Cantrell's exposure. We disagree.

On remand, in its March 16, 2026, order, the Board applied West Virginia Code § 23-4-1(f) to this claim and found that Mrs. Cantrell established that Mr. Cantrell developed mesothelioma in the course of and resulting from his employment at Adams. In reviewing this statute, we note no requirement that Mrs. Cantrell prove that Mr. Cantrell was exposed to abnormal quantities of asbestos dust in his work at Adams. Further, while Adams argues that Mr. Cantrell was exposed to asbestos in jobs before his work at Adams, we noted that in *Lindy & Fred Seco Gen. Revokable Tr. v. Keller*, No. 22-ICA-82, 2023 WL 1463355, at *5 (W. Va. Ct. App. Feb. 2, 2023) (memorandum decision), aff'd, No. 23-190, 2024 WL 4274137 (W. Va. Sept. 23, 2024) (memorandum decision), we found that,

> the question is not whether [the claimant] developed an occupational disease with one particular employer. The correct inquiry is whether [the claimant's] occupational disease was caused from his exposure history through employment which can, as in this case, be from multiple employers … If a claimant proves by a preponderance of the evidence that he or she developed an occupational disease through exposure during employment, the last employer where the claimant was exposed may be chargeable for the full liability of the claim.

The Board noted Dr. Khan's unrefuted opinion that there is no safe level of exposure to asbestos, at which mesothelioma could not occur, and he attributed Mr. Cantrell's history of occupational exposure as a significant contributing cause for his disease. We note that Mr. Cantrell said in a written statement that his work duties at Adams were the same as those at J&S and Mountaineer and that he worked on mining equipment, which exposed him to asbestos at these workplaces. Mr. Cantrell also testified at length about how his work required him to remove and replace the asbestos packing inside electrical component "glands" in mining equipment. Jack Cantrell said in his affidavit that he worked with his brother at Adams and that when Mr. Cantrell rewired equipment, he had to repack the asbestos. Jack Cantrell also testified that Mr. Cantrell's work on mining equipment at Adams exposed him to asbestos. He noted that Mr. Cantrell would blow out the electrical boxes and that he had to repack them with asbestos.

Adams argues that Mr. Cline's affidavit establishes that asbestos was not known to be present in the facility. However, we note that the Board found Mr. Cline's statement that he was "unaware" of the presence of asbestos at Adams to be "equivocal" and "inadequate." The Board also noted that Mr. Cline's statement did not address Mr. Cantrell's entire time of employment at Adams. Thus, we are unpersuaded by Adams' suggestion that Mr. Cantrell was insufficiently exposed to asbestos at Adams.

Likewise, Adams' argument that Jack Cantrell "ultimately disclaimed knowledge of asbestos presence" at Adams is inaccurate. We note that although Jack Cantrell indicated that Mr. Cantrell may have sustained exposure to asbestos in places other than Adams, and during the later part of his testimony he said that asbestos was not "all over the place" in the work facilities, it is clear that he confirmed that Mr. Cantrell was exposed to asbestos during his employment at Adams. Also, West Virginia Code § 23-4-1(f) does not require a claimant to prove the conditions of their employment were the exclusive or sole cause of the disease, nor does it require a claimant to show that the disease is peculiar to one industry, work environment, or occupation. *See* Syl. Pt. 3, *Powell v. State Workmen's Comp. Comm'r*, 166 W. Va. 327, 273 S.E.2d 832 (1980).

The SCAWV has held that when "studies and research clearly link a disease to a particular hazard of a workplace, a prima facie case of causation arises upon a showing that the claimant was exposed to the hazard and is suffering from the disease to which it is connected." *Casdorph v. W. Va. Off. Ins. Comm'r*, 225 W. Va. 94, 100, 690 S.E.2d 102, 108 (2009) (quoting Syl. Pt. 5, *Powell v. State Workmen's Comp. Comm'r*, 166 W. Va. 327, 273 S.E.2d 832 (1980). Also, 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 reversing the claim administrator's order and finding that Mrs. Cantrell established that Mr. Cantrell developed mesothelioma in the course of and resulting from his employment at Adams and that the requirements of West Virginia Code § 23-4-1(f) were satisfied. Discerning no reversible error in the Board's ruling, we affirm.

Affirmed.

ISSUED: November 10, 2026

CONCURRED IN BY:

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