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

RAUN BOWERS,
Claimant Below, Petitioner

v.) No. 26-ICA-188 (JCN: 2025013060)

WEST VIRGINIA UNITED HEALTH SYSTEM, INC.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Raun Bowers appeals the April 6, 2026, order of the Workers' Compensation Board of Review ("Board"). Respondent West Virginia United Health System, Inc. ("WVUHS") filed a response.[1] Mr. Bowers filed a 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 (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 May 30, 2025, according to a Berkeley Medical Center-Safety Incident Report, Mr. Bowers reported to his supervisor, Robert Perdue, that he was injured during a taser training incident. Mr. Perdue reported that, on Friday, May 30, 2025, he was observing a taser training class and Mr. Bowers was instructed to lie on his stomach in preparation for being tased. Mr. Perdue began recording as Mr. Bowers positioned himself. Mr. Bowers indicated that he was ready, and the taser was deployed. During the five-second exposure, Mr. Bowers rolled onto his back. Once the device was deactivated, Mr. Bowers was instructed to roll back onto his stomach to remove the taser prongs from his right thigh and his lower left back. Mr. Perdue reported that there were no visible complications, but Mr. Bowers remained lying down and reported some difficulty catching his breath. Mr. Bowers asked if it was normal to see blue after being tased. Mr. Bowers was offered to be taken to the hospital, but he did not respond. Mr. Perdue stated he escorted Mr. Bowers to the

[1] Mr. Bowers is self-represented. WVUHS is represented by Steven K. Wellman, Esq., and James W. Heslep, Esq.

hospital and remained with him. Mr. Bowers complained of seeing blue, muscle soreness, and weakness in his legs.

Mr. Bowers went to Berkeley County Medical Center Emergency Department ("BCMCED") on May 30, 2025, for back pain, leg pain, and dizziness. Mr. Bowers reported that he was tased in the lower back and back of the right thigh for approximately four seconds during a training exercise. Mr. Bowers noted increased hunger, leg cramping, and brain fog. The assessment was shock from an electroshock gun. Eric Glass, D.O., indicated that Mr. Bowers experienced the expected outcome of being tased, and there was no reasonable probability of any serious emergent condition.

On May 31, 2025, Mr. Bowers was seen at WellSpan Urgent Care, with complaints of headache, fatigue, elevated blood pressure, calf tightness, and blurry vision since getting tased at work the previous day. Mr. Bowers indicated that he saw blue for several hours. The assessment was taser injury, leg cramps, and blurred vision. Mr. Bowers returned to BCMCED on June 1, 2025, and he reported that his back pain had not decreased and now radiated to both lower extremities. He further reported a history of nerve root block at L4-L5 and S1 in November 2024. The assessment was back pain and a taser injury.

On June 10, 2025, Mr. Bowers submitted an Employees' and Physicians' Report of Injury alleging that he sustained an injury to the lower extremities when he was tased during training on May 30, 2025. Sandra Fowler, M.D., completed the physician's portion of the application on June 16, 2025, and indicated that the injury was severe back pain/back spasm and sciatic nerve disorder due to electric shock. Dr. Fowler further indicated that Mr. Bowers's condition was a direct result of an occupational injury.

Mr. Bowers presented to WellSpan Family Medicine multiple times between June 2, 2025, and July 7, 2025. On June 2, 2025, Mr. Bowers reported pain radiating down both legs, swelling, rash on the bottoms of both legs, not sleeping well, fatigue, and back pain in the area where he was tased. He indicated that he attempted to return to work on June 1, 2025, but was advised to seek medical attention at the emergency room. The assessment was acute midline low back pain with bilateral sciatica, muscle spasm, and taser injury. On June 4, 2025, x-rays of Mr. Bowers' sacroiliac joints were performed, revealing no acute or posttraumatic findings. An x-ray of the lumbar spine revealed no obvious acute fracture or dislocation. On June 10, 2025, Mr. Bowers reported bilateral leg pain, described as similar to sciatica, with pain fluctuating more on the right side. On June 17, 2025, Mr. Bowers rated his back pain at 7.5/10, and he described it as a pins-and-needles sensation that radiates down both legs. The assessment was back pain, hypertension, and ascending aortic dilation. On June 23, 2025, Mr. Bowers reported he was not sleeping due to muscle spasms, back pain, and pain radiating down his right leg. The assessment was taser injury, lumbosacral radiculopathy, and acute midline low back pain with bilateral sciatica. On June

30, 2025, Mr. Bowers reported back pain, sleep disturbance, and sciatica. He reported that physical therapy has been beneficial.

On July 7, 2025, Mr. Bowers underwent an MRI of the lumbar spine revealing multilevel lumbar degenerative disease/spondylosis as detailed in the body of the report, including disc bulges and superimposed disc protrusion at L4/5 and L5/S1; varying degree of central canal, lateral recess, and neural foraminal narrowing at L4/5 and L5/S1, with probable contact of the exiting L5 and traversing left S1 nerve roots as described. The claim administrator issued an order dated July 7, 2025, rejecting the claim. Mr. Bowers protested this order. On July 14, 2025, Mr. Bowers underwent an EMG/NCS revealing bilateral S1 radiculitis and bilateral tarsal tunnel syndrome.

Mr. Bowers was deposed on October 7, 2025, and he testified that he was hired as a security officer at the Berkeley Medical Center on May 19, 2025. Mr. Bowers stated that on May 30, 2025, he participated in specialized training that included taser training. Mr. Bowers stated that he was told to lie down on his stomach on the floor on a pad, and a taser was deployed, hitting him on the right and left side of his back. Mr. Bowers described "a very horrendous electrical shock that went from the mid-back all the way down to his feet with excruciating pain." Mr. Bowers said that he screamed in pain and saw cobalt blue. He testified that he said yes when he was asked if he needed to be evaluated. Mr. Bowers stated that he was in and out of consciousness while being evaluated at the hospital. Mr. Bowers stated that his back was hurting, his head was ringing, he had numbness down both legs, headaches, and he could not sleep. Mr. Bowers stated that he returned to the hospital the following day and he was told to follow up with his family doctor. He stated that Dr. Fowler told him that he needed to relax; she gave him time off work, and she prescribed muscle relaxers because of muscle spasms from the midline of his back down to his ankles in both legs. Mr. Bowers stated that both of his feet were swollen for almost two and a half to three months after the incident, he had muscle spasms from his glutes all the way down to his ankles, he has headaches every day, blurry vision two to three times a week, and he does not sleep because of the pain. Mr. Bowers admitted that, in April of 2024, he was in a motor vehicle accident. He testified that he received an epidural injection, an SI joint injection on the left side, and he underwent PT from May to December of 2024. Mr. Bowers further testified that, following his treatment, he was "100 percent fine" when he started his job on May 19, 2025.

Prior to the alleged injury, between 2011 and 2024, Mr. Bowers was diagnosed with and/or received treatment for chronic back pain, a left L5-S1 disc rupture, sciatica, and lumbar radiculopathy. On May 19, 2025, Mr. Bowers filed a lawsuit in the Circuit Court of Washington County, Maryland related to a motor vehicle accident that occurred on April 28, 2024. Mr. Bowers alleged that the collision resulted in injuries including a head injury, swelling and injury to the left foot and leg, and aggravation of a preexisting back condition.

On April 6, 2026, the Board affirmed the claim administrator's order, which rejected the claim. The Board found that Mr. Bowers failed to establish that he suffered a discrete new injury rather than an aggravation of prior injuries. Mr. Bowers 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).

Mr. Bowers argues that "convincing and competent evidence presented by Petitioner clearly establishes petitioner was injured on May 30, 2025, while training with the Employer concerning the use of tasers." We disagree.

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, syl. pt 1 (1970); *Sansom v. Workers' Comp. Comm'r*, 176 W. Va. 545, 346 S.E.2d 63, syl. pt. 1 (1986).

The Supreme Court of Appeals of West Virginia ("SCAWV") held, in *Gill v. City of Charleston*, 236 W. Va. 737, 783 S.E.2d 857 (2016):

> A noncompensable preexisting injury may not be added as a compensable component of a claim for workers' compensation medical benefits merely because it may have been aggravated by a compensable injury. To the extent

> that the aggravation of a noncompensable preexisting injury results in a [discrete] new injury, that new injury may be found compensable.

Id. at 738, 783 S.E.2d at 858, syl. pt. 3.

Here, the Board analyzed the claim under *Gill* and determined that the medical evidence established that Mr. Bowers was suffering from his preexisting ongoing low back issues rather than a discrete new injury. Further, the Board found that Mr. Bowers' testimony is not credible. The Board noted that Mr. Bowers has had chronic preexisting back issues dating to 2011. Further, the Board noted that on May 19, 2025, eleven days before the tasing incident, Mr. Bowers filed a lawsuit regarding a motor vehicle accident occurring in April of 2024 that resulted in injuries including a head injury, swelling, and injury to the left foot and leg, and aggravation of a preexisting back condition. The Board found that the medical records establish that Mr. Bowers has had the same issues and symptoms to his lower back and lower extremities for years prior to the taser incident of May 30, 2025.

Upon review, we conclude that the Board was not clearly wrong in finding that Mr. Bowers failed to establish that he suffered a discrete new injury on May 30, 2025. 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 affirming the claim administrator's order rejecting the claim.

Further, we will defer to the Board's credibility 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 . . . .").

Accordingly, we affirm the Board's April 6, 2026, order.

Affirmed.

ISSUED: November 10, 2026

CONCURRED IN BY:

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