IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

VASHAWN J. LEWIS,
Claimant Below, Petitioner

v.) No. 26-ICA-39 **(**WorkForce W. Va. Bd. of Rev. Case No. REJ-2025-2053)

SOUTHERN HOME CARE SERVICES, INC.,
Employer Below, Respondent

and

SCOTT A. ADKINS, in his official capacity as Acting Commissioner of WorkForce West Virginia,
Respondent

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

MEMORANDUM DECISION

Petitioner Vashawn J. Lewis appeals the December 29, 2025, order of the WorkForce West Virginia Board of Review ("Board") that affirmed the administrative law judge's ("ALJ") dismissal of Mr. Lewis' underlying appeal due to his failure to appear and prosecute his case and for failure to show good cause for a late appeal. Respondent Scott A. Adkins, in his official capacity as Acting Commissioner of WorkForce West Virginia ("WorkForce"), filed a response. Mr. Lewis did not file a reply.[1] Southern Home Care Services, Inc. ("Southern Home Care") did not participate in this appeal.

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 the reasons set forth below, a memorandum decision affirming the Board's decision is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

Mr. Lewis was employed by Southern Home Care as a full-time caregiver. On November 8, 2020, he applied for unemployment compensation benefits citing a lack of work. On September 28, 2021, a WorkForce claims deputy entered a decision noting that Southern Home Care provided information stating that Mr. Lewis was still employed full-

[1] Mr. Lewis is self-represented. WorkForce is represented by Kimberly A. Levy, Esq.

time and that Mr. Lewis failed to respond to WorkForce's requests for additional information. As a result, the deputy found Mr. Lewis was ineligible for unemployment benefits because he was neither totally nor partially unemployed as defined under West Virginia Code § 21A-1A-27 (1996). The deputy further found that Mr. Lewis had received unemployment compensation benefits that he was not entitled to from November 12, 2020, through June 19, 2021, totaling $9,260. The deadline to appeal this decision was October 7, 2021, but Mr. Lewis did not file his appeal until September 25, 2025, which was three years, eleven months, and eighteen days after this deadline expired.

Mr. Lewis' September 25, 2025, appeal stated that he had been dealing with family issues since 2005 when Hurricane Katrina struck New Orleans, was frequently traveling between New Orleans and West Virginia, and was unaware of the deputy's decision. On October 2, 2025, the chief ALJ rejected Mr. Lewis' appeal as untimely and stated that he failed to show good cause for his late appeal. Mr. Lewis filed a timely request for reconsideration on October 7, 2025, stating he was in the process of getting divorced in 2020 and was not receiving his mail on a daily basis when the initial deputy's decision was entered. He stated that he moved out of his home, had filed a change of address at the post office, but did not receive the deputy's decision by the deadline. On October 8, 2025, the chief ALJ issued a letter advising Mr. Lewis that a hearing would be scheduled to determine whether he had good cause for filing his late appeal.

On October 17, 2025, the ALJ mailed a notice of telephonic hearing to the parties advising them of the date of the hearing and instructions to notify the Board of a telephone number where they may be contacted for the hearing. However, neither party contacted WorkForce to provide their contact information as instructed. Accordingly, neither party appeared at the October 28, 2025, telephonic hearing on the issue of whether good cause existed for the late appeal. On November 6, 2025, the ALJ issued a written decision holding that Mr. Lewis bore the burden of proof in this case, but he failed to appear at the October 28, 2025, hearing. As a result, the ALJ dismissed the case for failure to prosecute and held that Mr. Lewis failed to show good cause for his late appeal.

On November 14, 2025, Mr. Lewis timely appealed the ALJ's decision to the Board and requested that this case be remanded for a de novo hearing before the ALJ. In that appeal, Mr. Lewis stated he was working mandatory overtime at a new job, had not checked his mail for a while, and was going through personal matters and financial issues which caused him to miss the October 28, 2025, hearing. On December 29, 2025, the Board entered an order holding that Mr. Lewis failed to provide a valid reason for not appearing at the ALJ's hearing and failed to show good cause to remand this case to the ALJ. The Board further found that the ALJ properly dismissed this case, and the Board then denied Mr. Lewis's appeal. It is from this order that Mr. Lewis now appeals.

In this appeal, our standard of review is as follows:

> The findings of fact of the Board of Review of [WorkForce West Virginia] are entitled to substantial deference unless a reviewing court believes the findings are clearly wrong. If the question on review is one purely of law, no deference is given and the standard of judicial review by the court is *de novo*.

Syl. Pt. 3, *Adkins v. Gatson*, 192 W. Va. 561, 453 S.E.2d 395 (1994).

On appeal, Mr. Lewis asserts one assignment of error and argues he did not willingly quit his job, did not engage in misconduct, did not refuse to work, and was approved to receive unemployment benefits during the time that he was not working. However, these arguments concern the merits of the underlying deputy's decision. We find that Mr. Lewis' assignment of error is unpersuasive because the sole issue before the ALJ and the Board was whether he showed good cause for his late appeal of the deputy's decision. "Our general rule is that nonjurisdictional questions. . . raised for the first time on appeal, will not be considered." *Shaffer v. Acme Limestone Co.*, 206 W. Va. 333, 349 n.20, 524 S.E.2d 688, 704 n.20 (1999); *see also Louk v. WorkForce W. Va.*, No. 23-ICA-160, 2024 WL 1733730, at *2 (W. Va. Ct. App. Apr. 22, 2024). The ALJ and the Board did not consider evidence regarding Mr. Lewis' separation from work, and we will not consider this assignment of error on appeal.

Turning to the issue of whether Mr. Lewis provided good cause for his late appeal, West Virginia Code of State Rules § 84-1-3.3 (2018) provides that "[a]ny appeal shall be filed within eight (8) calendar days after the decision has been mailed to the claimant and last employer as provided by W. Va. Code § 21A-7-8." Further, West Virginia Code of State Rules § 84-1-3.4 (2018) states as follows:

> All appeals must be filed in accordance with the time periods set forth in these rules. The postmark date is the filing date . . . . For good cause shown, the Board or its designee may accept and process a late appeal.

Black's Law Dictionary defines "good cause" as, "[a] legally sufficient reason" and states that "[g]ood cause is often the burden placed on a litigant . . . to show why a request should be granted or an action excused," and is synonymous with the terms "good cause shown; just cause; lawful cause; [and] sufficient cause." *Good Cause*, Black's Law Dictionary (12th ed. 2024).

Upon review, we find that the Board was not clearly wrong in finding that Mr. Lewis did not provide good cause for his late appeal of the deputy's decision. Mr. Lewis filed his appeal three years, eleven months, and eighteen days after the appeal deadline expired and his reasoning was that he had been dealing with family issues since 2005 when Hurricane Katrina struck New Orleans, was unaware of the deputy's decision, was in the process of getting divorced in 2020, and was not receiving or checking his mail on a daily basis. We find no clear error in the Board's findings that these reasons do not support a finding of

good cause. Further, it appears that Mr. Lewis did receive multiple communications from WorkForce because he timely appealed several decisions and all communications from WorkForce were addressed to the same Charleston, West Virginia address. Further, it is well established by our Supreme Court of Appeals that "a letter properly addressed, stamped, and mailed is presumed to have been duly delivered to the addressee." *Dunn v. Watson*, 211 W. Va. 418, 421, 566 S.E.2d 305, 308 (2002). Thus, we find that the Board did not err in affirming the ALJ's decision that Mr. Lewis failed to demonstrate good cause for his late appeal.

Accordingly, we affirm the Board's December 29, 2025, order.

Affirmed.

ISSUED: November 10, 2026

CONCURRED IN BY:

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