

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

Paul Scott v. ACNR Resources, Inc.

Nos. 25-ICA-175 and 25-ICA-208 (JCN: 2024009153) (W. Va. Ct. App. Dec. 22, 2025) (memorandum decision)
· No. Nos. 25-ICA-175 and 25-ICA-208 (JCN: 2024009153) · Decided December 22, 2025

SUMMARY

The Intermediate Court of Appeals of West Virginia consolidated Paul Scott’s appeals concerning the denial of left shoulder hemiarthroplasty surgery and the termination of temporary total disability benefits in his workers’ compensation claim. The court held that the Workers’ Compensation Board of Review failed to adequately analyze the medical evidence, make credibility determinations, and apply relevant precedent concerning preexisting conditions and newly symptomatic disabilities. The court vacated both Board orders and remanded for further proceedings.

CASE DETAILS

COURT	Intermediate Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Judge Charles O. Lorensen; Judge Daniel W. Greear; Judge S. Ryan White
JURISDICTION	Intermediate Court of Appeals of West Virginia
DECIDED	December 22, 2025
DOCKET	Nos. 25-ICA-175 and 25-ICA-208 (JCN: 2024009153)
DISPOSITION	vacated
PROCEDURAL POSTURE	Consolidated workers’ compensation appeals from two West Virginia Workers’ Compensation Board of Review orders affirming claim-administrator decisions denying authorization for left shoulder hemiarthroplasty surgery and terminating temporary total disability benefits.
STANDARD OF REVIEW	Under West Virginia Code § 23-5-12a(b), the Intermediate Court of Appeals may affirm or remand a Board of Review decision and must reverse, vacate, or modify it when substantial rights are prejudiced by statutory violations, excess of authority, unlawful procedure, error of law, clearly erroneous findings in view of the whole record, or arbitrary, capricious, abusive, or clearly unwarranted discretion.
PRECEDENTIAL VALUE	Published memorandum decision; precedential status is not otherwise specified in the opinion text.

PARTIES

Paul Scott v. ACNR Resources, Inc.

TOPICS

workers compensation

judicial review of agency action

standard of review

appellate procedure

administrative law

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether the Board of Review clearly erred or otherwise failed to adequately analyze the conflicting medical evidence in denying authorization for left shoulder hemiarthroplasty surgery.
2. Whether the Board properly determined that Scott was not entitled to temporary total disability benefits after August 28, 2024.
3. Whether the Board was required to apply Gill, Moore, and Argabright and make sufficient credibility and evidentiary findings concerning the relationship between the compensable injury, the preexisting shoulder arthritis, the requested surgery, and Scott's disability.

HOLDINGS

1. The Board's April 1, 2025, order was inadequate because it failed to analyze the governing authorities, resolve the conflicting medical opinions, make credibility determinations, and weigh relevant evidence concerning whether the requested surgery treated a compensable injury or a preexisting condition.
2. The Board's April 16, 2025, order terminating Scott's temporary total disability benefits was premature and had to be vacated because entitlement to benefits depended on whether the requested hemiarthroplasty was treatment for the compensable injury and whether Scott had reached maximum medical improvement.

KEY QUOTATIONS

"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." (at 5)

"A claimant's disability will be presumed to have resulted from the compensable injury if: (1) before the injury, the claimant's preexisting disease or condition was asymptomatic, and (2) following the injury, the symptoms of the disabling disease or condition appeared and continually manifested themselves afterwards." (at 5)

"Gill and Moore do not render preexisting injuries compensable. Compensability is limited only to discrete new injuries and disabilities that manifest following the compensable injury." (at 5)

FACTUAL BACKGROUND

Scott injured his left shoulder in a workplace fall on October 31, 2023, and his workers' compensation claim was accepted for an unspecified shoulder strain. Medical imaging revealed a rotator cuff tear and severe preexisting glenohumeral osteoarthritis. Scott's treating surgeon opined that the tear could not be effectively treated without shoulder arthroplasty, while the employer's independent medical examiner ultimately opined that arthroplasty treated only the preexisting arthritis and was unrelated to the compensable injury. The Board accepted the employer expert's position without addressing conflicting evidence, credibility, or Scott's testimony that his preinjury medication was for knee problems.

PROCEDURAL HISTORY

Scott's claim administrator accepted an unspecified shoulder strain as compensable, later denied authorization for hemiarthroplasty surgery, and terminated his temporary total disability benefits. The Workers' Compensation Board of Review affirmed both decisions in orders dated April 1 and April 16, 2025. Scott appealed both orders, and the Intermediate Court of Appeals consolidated the appeals.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Board of Review must reconsider both April 1, 2025, and April 16, 2025, orders, consider all evidence in the record in accordance with Gill, Moore, and Argabright, make appropriate credibility determinations, weigh the relevance, credibility, materiality, and reliability of the evidence, address the conflicting medical opinions and other identified evidence, and provide sufficient analysis in its subsequent orders to substantiate its findings.

CASES CITED

- Duff v. Kanawha Cnty. Comm'n, 250 W. Va. 510, 905 S.E.2d 528 (2024)
- Tudor's Biscuit World of Am. v. Critchley, 229 W. Va. 396, 729 S.E.2d 231 (2012) (per curiam)
- Gill v. City of Charleston, 236 W. Va. 737, 783 S.E.2d 857 (2016)
- Moore v. ICG Tygart Valley, LLC, 247 W. Va. 292, 879 S.E.2d 779 (2022)
- Blackhawk Mining v. Argabright, 251 W. Va. 549, 915 S.E.2d 7 (W. Va. Ct. App. 2023)
- Argabright v. Blackhawk Mining, LLC, No. 23-381, 2024 WL 3984505 (W. Va. Aug. 27, 2024) (memorandum decision)

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