

**CALDWELL, IDAHO, MAY 8, 2024, AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>ROBERT NELSON,</b>	)	
	)	
<b>Claimant-Appellant,</b>	)	<b>Docket No. 50485-2023</b>
	)	
<b>v.</b>	)	
	)	
<b>STATE OF IDAHO, INDUSTRIAL SPECIAL</b>	)	
<b>INDEMNITY FUND,</b>	)	
	)	
<b>Respondent,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>HOPPY ENTERPRISE, LLC, Employer; and</b>	)	
<b>IDAHO STATE INSURANCE FUND,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

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Appeal from the Idaho Industrial Commission.

Curtis, Porter & Adams, PLLC, Idaho Falls, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

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This case concerns Robert Nelson’s claim against the Idaho Industrial Special Indemnity Fund for total and permanent disability benefits. Robert injured his back while lifting a garage door at work on March 29, 2018. After settling worker’s compensation claims against his employer and its surety, Robert pursued a claim for total and permanent disability against the Idaho Industrial Special Indemnity Fund, alleging that he became totally and permanently disabled due to his work-related back injury combining with several preexisting injuries. After a hearing, an Industrial Commission referee recommended that the Commission deny Robert’s claim. The referee found that Robert failed to prove that he is totally and permanently disabled, and that even if Robert is totally and permanently disabled, he failed to prove that the work-related injury combined with his preexisting injuries to cause total and permanent disability. In reaching its finding, the referee found that Robert was not credible and assigned greater weight to objective medical information than Robert’s subjective representations. The Commission adopted the referee’s findings in their entirety.

On appeal, Robert argues that there is not substantial and competent evidence supporting the Commission's finding that he was not credible. He argues that the Commission erred as a matter of law by relying on his misdemeanor insurance fraud conviction when evaluating his credibility. Robert also argues that the Commission's findings that he provided inconsistent testimony regarding his preexisting injuries, prior work experience, and his attempt to return to work are not supported by substantial and competent evidence. Robert contends that the Commission's erroneous credibility determination was a material error. Consequently, Robert asserts that the Commission's decision should be vacated and his case remanded for a new hearing.