OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

BRIAN WHITE,	)	No. ED113099
	)	
Respondent,	)	Appeal from the Labor and Industrial Relations Commission
	)	
vs.	)	
	)	
TREASURER OF THE STATE OF MISSOURI AS CUSTODIAN OF THE SECOND INJURY FUND,	)	
	)	
Appellant.	)	FILED: June 17, 2025

The Treasurer of the State of Missouri, as Custodian of the Second Injury Fund (SIF), appeals from the Labor and Industrial Relations Commission's (Commission) award of permanent total disability (PTD) benefits to Brian White (White) for his November 2020 chest injury in combination with disabilities resulting from White's preexisting occupational shoulder disease. The sole question before us is whether occupational diseases satisfy the preexisting disability requirement for SIF liability under § 287.220.3(2)(a)a(ii).

REVERSED AND REMANDED.

DIVISION TWO HOLDS: During the pendency of this appeal, the Supreme Court of Missouri decided occupational diseases are not compensable under this section of the statute and therefore are not covered by SIF. *Treasurer of State v. Penney*, 710 S.W.3d 498 (Mo. banc 2025). Because the record contains evidence of other prior work-related injuries, that do not necessarily implicate *Penney*, and may trigger SIF liability, we reverse and remand the case for further proceedings consistent with this opinion.

Opinion by: Rebeca M. Navarro-McKelvey, J.
Lisa P. Page, P.J., and Virginia W. Lay, J., concur.

Attorney for Respondent: Thomas J. Gregory, M. Adina Johnson, Michael A. Gross

Attorney for Appellant: Matthew Kincade III

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.