

BRB No. 10-0356 BLA

RILEY COLLINS (deceased))	
)	
Claimant-Respondent)	
)	
v.)	
)	
WHITAKER COAL CORPORATION)	DATE ISSUED: 06/21/2013
)	
Employer-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS’)	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	DECISION and ORDER

Appeal of the Decision and Order on Remand of Joseph E. Kane, Administrative Law Judge, United States Department of Labor.

James D. Holliday, Hazard, Kentucky, for claimant.

Ronald E. Gilbertson (K&L Gates LLP), Washington, D.C., for employer.

Rita Roppolo (M. Patricia Smith, Solicitor of Labor; Rae Ellen James, Associate Solicitor; Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers’ Compensation Programs, United States Department of Labor.

Before: DOLDER, Chief Administrative Appeals Judge, SMITH and BOGGS, Administrative Appeals Judges.

PER CURIAM:

This case is before the Board on remand by Order of the United States Court of Appeals for the Sixth Circuit, vacating the Board’s decision to vacate the Decision and Order on Remand (03-BLA-5208) of Administrative Law Judge Joseph E. Kane (the administrative law judge), which awarded benefits on a claim filed on February 12, 2001, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Supp. 2011)

(the Act).¹ The administrative law judge found that the claim was timely filed pursuant to 20 C.F.R. §725.308. The administrative law judge also found that the evidence established the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(1), (4) and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4). The administrative law judge additionally found that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c). Accordingly, the administrative law judge awarded benefits.

In response to employer's appeal,² the Board rejected employer's assertion that the administrative law judge erred in finding that the claim was timely filed under 20 C.F.R. §725.308, and thus affirmed it. The Board also rejected employer's assertion that Administrative Law Judge Thomas F. Phalen, Jr. erred by denying its request to reopen the record for consideration of relevant evidence that was developed in the survivor's claim. The Board nonetheless held that, contrary to the administrative law judge's finding, Dr. Baker's opinion that claimant³ had clinical and legal pneumoconiosis is not reasoned, as the doctor's report does not contain an explanation for his conclusions that claimant had coal workers' pneumoconiosis, and that claimant's chronic obstructive pulmonary disease (COPD) and hypoxemia were caused by coal dust exposure. The Board therefore reversed the administrative law judge's finding that the medical opinion evidence established the existence of clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4). Further, the Board declined to address employer's assertions regarding the administrative law judge's weighing of Dr. Broudy's opinion because any error by the administrative law judge in this regard was harmless in view of its disposition of the case

¹ The procedural history of this case is set forth in the Board's decisions in *Collins v. Whitaker Coal Co.*, BRB No. 05-0397 BLA (Jan. 27, 2006)(unpub.), and *Collins v. Whitaker Coal Co.*, BRB No. 10-0356 BLA (Mar. 24, 2011)(unpub.).

² Employer contended that Administrative Law Judge Joseph E. Kane (the administrative law judge) erred in finding that the claim was timely filed under 20 C.F.R. §725.308 and in denying its request to reopen the record for consideration of relevant evidence that was developed in the survivor's claim. Employer additionally contended that the administrative law judge erred in finding that the evidence established the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(1), (4) and the existence of legal pneumoconiosis at 20 C.F.R. §718.202(a)(4). Lastly, employer contended that the administrative law judge erred in finding that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c). Claimant responded, urging affirmance of the administrative law judge's award of benefits. Employer filed a brief in reply to claimant's response brief, which reiterated its prior contentions. The Director, Office of Workers' Compensation Programs, declined to file a substantive response brief.

³ Claimant died on January 5, 2006.

at 20 C.F.R. §718.202(a)(4). In addition, the Board reversed the administrative law judge's finding that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c)⁴ because it reversed his finding that the medical opinion evidence established the existence of clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4).⁵ Finally, the Board declined to address employer's contention that the administrative law judge erred in finding that the x-ray evidence established the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(1) because any error by the administrative law judge in this regard was harmless in view of its disposition of the case at 20 C.F.R. §§718.202(a)(4) and 718.204(c). *Collins v. Whitaker Coal Co.*, BRB No. 10-0356 BLA (Mar. 24, 2011)(unpub.).

Following claimant's appeal of the Board's Decision and Order, the Sixth Circuit court held that the Board erroneously disregarded the administrative law judge's finding that the x-ray evidence established the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(1). The court also held that the Board exceeded its scope of review when it held that Dr. Baker's opinion did not constitute substantial evidence to support the administrative law judge's finding that the evidence established the existence of both clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4). Hence, the court vacated the Board's determination that substantial evidence did not support the administrative law judge's finding that the evidence established the existence of pneumoconiosis at 20 C.F.R. §718.202(a), and remanded the case to the Board for further consideration in accordance with its opinion. Further, the court remanded the case to the Board to determine whether the administrative law judge's disability causation finding was supported by substantial evidence. *Collins v. Whitaker Coal Corp.*, No. 11-4309 (Order) (6th Cir. Sept. 14, 2012).

In view of the Sixth Circuit court's remand instructions, we hereby address the administrative law judge's findings on the merits. The administrative law judge found that the evidence established the existence of pneumoconiosis at 20 C.F.R. §718.202(a)(1). The record consists of nine interpretations of five x-rays dated April 12, 1994, June 19, 1995, May 21, 2001, November 28, 2001, and October 30, 2003. Dr. Myers, who is neither a B reader nor a Board-certified radiologist, read the April 12, 1994 x-ray as positive for pneumoconiosis. Director's Exhibit 11. Similarly, Dr.

⁴ The Board noted that Dr. Baker's report does not contain any explanation for his conclusion that claimant's coal dust exposure "fully" contributed to his respiratory impairment.

⁵ The Board noted that the administrative law judge's finding that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c), rested on his finding that the medical opinion evidence established the existence of pneumoconiosis at 20 C.F.R. §718.202(a)(4).

Sundaram, who is neither a B reader nor a Board-certified radiologist, read the June 19, 1995 x-ray as positive for pneumoconiosis. Director's Exhibit 12. Dr. Alexander, who is dually-qualified as a B reader and a Board-certified radiologist, and Dr. Baker, who is neither a B reader nor a Board-certified radiologist, read the May 21, 2001 x-ray as positive for pneumoconiosis, Claimant's Exhibit 2; Director's Exhibit 18, while Dr. Scott, who is dually-qualified as a B reader and a Board-certified radiologist, read that x-ray as negative, Director's Exhibit 22. Further, Dr. Alexander, who is a dually-qualified radiologist, read the November 28, 2001 x-ray as positive for pneumoconiosis, Claimant's Exhibit 4, while Dr. Broudy, who is a B reader, read the same x-ray as negative, Employer's Exhibit 8. Lastly, Dr. Dahhan, who is a B reader, read the October 30, 2003 x-ray as negative for pneumoconiosis. Employer's Exhibit 9.

The administrative law judge found that the April 12, 1994 and June 19, 1995 x-rays were positive for pneumoconiosis, because no physician refuted the positive readings of these films by Drs. Myers and Sundaram. The administrative law judge found that the May 21, 2001 x-ray was inconclusive, because he relied on readings of this x-ray by the two dually-qualified radiologists, Drs. Alexander and Scott, and he found that they were conflicting. The administrative law judge found that the November 28, 2001 x-ray was positive for pneumoconiosis, based on Dr. Alexander's credentials as a dually-qualified radiologist. The administrative law judge found that the October 30, 2003 x-ray was negative for pneumoconiosis, because no other physician refuted Dr. Dahhan's negative reading of this x-ray. Although the administrative law judge determined that the positive x-rays dated April 12, 1994 and June 19, 1995 carried little weight because Drs. Myers and Sundaram were not B readers or Board-certified radiologists, he nonetheless found that they bolstered slightly the positive x-ray dated November 28, 2001, as he found that "their interpretations are largely consistent with Dr. Alexander's dually qualified interpretations."⁶ 2010 Decision and Order on Remand at 6. Hence, based on the administrative law judge's finding that claimant met his burden of proof, the administrative law judge found that the x-ray evidence established the existence of clinical pneumoconiosis at Section 718.202(a)(1).

On appeal before the Board, employer asserted that the administrative law judge erred in failing to adequately explain why he discounted the negative x-ray dated October 30, 2003. Contrary to employer's assertion, the administrative law judge permissibly

⁶ In finding that the x-ray readings of Drs. Myers and Sundaram were consistent with Dr. Alexander's x-ray reading, the administrative law judge stated, "Like Dr. Alexander, Drs. Myers and Sundaram found the profusion of small opacities was 1/1." 2010 Decision and Order on Remand at 6. The administrative law judge further stated that "all three doctors reported the same shape and size of the primary small opacities – p; and all three doctors reported small opacities in the both (sic) right and left zones." *Id.*

accorded greater weight to the positive x-ray dated November 28, 2001 by Dr. Alexander than to the negative x-ray dated October 30, 2003 by Dr. Dahhan because Dr. Alexander is a dually-qualified radiologist, *Worhach v. Director, OWCP*, 17 BLR 1-105 (1993); *Roberts v. Bethlehem Mines Corp.*, 8 BLR 1-211 (1985), and because the positive x-rays dated April 12, 1994 and June 19, 1995 by Drs. Myers and Sundaram bolstered Dr. Alexander's reading of this x-ray. *Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185, 12 BLR 2-121, 2-129 (6th Cir. 1989). Thus, we reject employer's assertion that the administrative law judge erred in failing to adequately explain why he discounted the most recent x-ray dated October 30, 2003, which is negative for pneumoconiosis.

Employer also asserted that the administrative law judge erred in relying on the positive x-ray readings of Drs. Myers and Sundaram because, employer alleged, claimant did not submit them to the Department of Labor (the Department) and, thus, they were unavailable for rebuttal under 20 C.F.R. §725.414. In his January 18, 2005 decision, Judge Phalen admitted Dr. Myers's April 12, 1994 x-ray and Dr. Sundaram's June 19, 1995 x-ray into the record. 2005 Decision and Order at 5. The Board affirmed Judge Phalen's evidentiary ruling with regard to these x-rays because employer waived its right to oppose their admission, as it did not object to them at the hearing. *Collins v. Whitaker Coal Co.*, BRB No. 05-0397 BLA, slip op. at 6 (Jan. 27, 2006)(unpub.). Moreover, in rejecting employer's subsequent motion for reconsideration, the Board reiterated its holding that employer waived its right to oppose the admission of the positive x-ray readings by Drs. Myers and Sundaram. *R.C. [Collins] v. Whitaker Coal Co.*, BRB No. 05-0397 BLA, slip op. at 3 (Feb. 29, 2008)(unpub. Order on Recon.). Because employer did not argue an exception to the law of the case doctrine, we rely on our prior holdings regarding the admission of the x-rays of Drs. Myers and Sundaram. See *Braenovich v. Cannelton Industries, Inc.*, 22 BLR 1-236, 1-246 (2003); *Troup v. Reading Anthracite Coal Co.*, 22 BLR 1-11 (1999) (en banc); *Brinkley v. Peabody Coal Co.*, 14 BLR 1-147 (1990); *Bridges v. Director, OWCP*, 6 BLR 1-988 (1984). Thus, we reject employer's assertion that the administrative law judge erred to the extent he relied on the positive x-ray readings of Drs. Myers and Sundaram.

Because it is supported by substantial evidence, we affirm the administrative law judge's finding that the x-ray evidence established the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(1).

At Section 718.202(a)(4), the administrative law judge considered the reports of Drs. Baker, Chaney, and Broudy,⁷ and found that the medical opinion evidence

⁷ Employer argued that Dr. Dahhan's opinion, that claimant did not have coal workers' pneumoconiosis or a chronic lung disease caused by coal dust exposure, should have been admissible and not summarily rejected. In his 2005 decision, Administrative Law Judge Thomas F. Phalen, Jr. rejected Dr. Dahhan's opinion because Dr. Dahhan

established the existence of both clinical and legal pneumoconiosis. The administrative law judge gave full probative weight to Dr. Baker's opinion that claimant had clinical and legal pneumoconiosis,⁸ based on his finding that it was well-reasoned. Conversely, the administrative law judge gave little probative weight to Dr. Chaney's opinion that claimant had clinical and legal pneumoconiosis,⁹ based on his finding that Dr. Chaney relied on an inaccurate smoking history. Additionally, the administrative law judge gave little probative weight to Dr. Chaney's opinion, based on his finding that Dr. Chaney did not identify the specific objective clinical tests that were relied on by him to diagnose the disease.¹⁰ The administrative law judge gave little probative weight to Dr. Broudy's opinion that claimant did not have clinical pneumoconiosis,¹¹ based on his findings that it was not clear what x-ray readings were referenced in the doctor's report, and that Dr. Broudy did not address the fact that the May 2001 and November 2001 x-ray readings were reread as positive by a doctor with superior radiological qualifications. Further, the administrative law judge found that Dr. Broudy's opinion that claimant did not have

referenced evidence that was not admitted into the record. 2005 Decision and Order at 20-21. The Board affirmed Judge Phalen's decision to reject Dr. Dahhan's opinion. *Collins*, BRB No. 05-0397 BLA, slip op. at 6; *Collins v. Whitaker Coal Co.*, BRB No. 05-0397 BLA, slip op. at 2 (Feb. 29, 2008)(unpub. Decision and Order on Recon.). In his decision, the administrative law judge did not consider Dr. Dahhan's opinion because the Board affirmed Judge Phalen's decision to reject it. 2010 Decision and Order at 8. Because the law of the case doctrine is applicable and no exception has been demonstrated, we will not revisit the issue of whether the administrative law judge erred in deciding not to consider Dr. Dahhan's opinion. See *Coleman v. Ramey Coal Co.*, 18 BLR 1-9 (1993); *Brinkley v. Peabody Coal Co.*, 14 BLR 1-147 (1990); *Bridges v. Director, OWCP*, 6 BLR 1-988 (1984).

⁸ Dr. Baker opined that claimant had coal workers' pneumoconiosis, and chronic obstructive pulmonary disease (COPD) and hypoxemia related to coal dust exposure and cigarette smoking. Director's Exhibit 18.

⁹ Dr. Chaney, claimant's treating physician, opined that claimant had coal workers' pneumoconiosis and a chronic dust disease caused by coal dust exposure. Director's Exhibit 15; Claimant's Exhibit 1.

¹⁰ No party contested the administrative law judge's weighing of Dr. Chaney's opinion.

¹¹ Dr. Broudy opined that claimant did not have coal workers' pneumoconiosis or a chronic lung disease caused by coal dust exposure. Director's Exhibits 13, 21; Employer's Exhibits 1, 3.

clinical pneumoconiosis was based on a premise that was contrary to his finding that the x-ray evidence was positive for pneumoconiosis. In addition, the administrative law judge gave little probative weight to Dr. Broudy's opinion that claimant did not have a chronic lung disease caused by coal dust exposure because he found that it was not well-reasoned. Therefore, based on Dr. Baker's opinion, the administrative law judge found that claimant established the existence of clinical and legal pneumoconiosis at Section 718.202(a)(4).

On appeal before the Board, employer asserted that Dr. Baker's opinion is insufficient to establish the existence of clinical and legal pneumoconiosis because Dr. Baker failed to provide an explanation for his conclusions. In our previous Decision and Order, we held that that Dr. Baker's opinion was not reasoned and, thus, that it was insufficient to establish the existence of clinical and legal pneumoconiosis at Section 718.202(a)(4). However, as noted above, the Sixth Circuit court held that the Board exceeded its scope of review when it held that Dr. Baker's opinion did not constitute substantial evidence to support the administrative law judge's finding that the medical opinion evidence established the existence of both clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4). The court specifically stated that "Dr. Baker was free to use a positive x-ray as a part of his overall diagnosis, and he properly relied upon this reading along with many factors to conclude that [claimant] was totally disabled by pneumoconiosis and by other respiratory conditions to which coal dust was a contributing factor." *Collins*, No. 11-4309, slip op. at 5. Thus, in light of the Sixth Circuit court's statements about Dr. Baker's opinion in this case, we hold that the administrative law judge reasonably found that Dr. Baker's opinion that claimant had clinical pneumoconiosis was entitled to probative weight, as he determined that, "in addition to considering coal mine employment and chest x-rays, it is apparent that Dr. Baker relied on his examination of [c]laimant, [c]laimant's medical history, his history as a smoker, and objective studies."¹² 2010 Decision and Order on Remand at 8; see *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(en banc). In addition, the administrative law judge reasonably found that Dr. Baker's opinion that claimant had legal pneumoconiosis was entitled to full probative weight, as he determined that the combination of Dr. Baker's reliable pulmonary function test, which yielded qualifying values, and his thorough examination of claimant, was a credible basis for Dr. Baker to opine that claimant suffered from legal pneumoconiosis. *Clark*, 12 BLR at 1-155.

Employer also argued that the administrative law judge erred in discounting Dr.

¹² The administrative law judge found that, "[a]s in [*Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 22 BLR 2-107 (6th Cir. 2000),] Dr. Baker's opinion on clinical pneumoconiosis addresses the statutory requirements, notwithstanding Dr. Baker's failure to provide a detailed explanation as to how these factors led him to reach a diagnosis of pneumoconiosis." 2010 Decision and Order on Remand at 8.

Broudy's opinion that claimant did not have clinical or legal pneumoconiosis. Specifically, employer argued that the administrative law judge erred in finding that Dr. Broudy's opinion that claimant did not have clinical pneumoconiosis was not supported by the x-ray evidence because, employer alleged, he erred in weighing the x-ray evidence. Contrary to employer's assertion, the administrative law judge properly accorded little weight to Dr. Broudy's opinion that claimant did not have clinical pneumoconiosis because it was based, in part, on the doctor's negative reading of an x-ray that was subsequently read as positive by a better qualified physician, *Furgerson v. Jericol Mining Inc.*, 22 BLR 1-216, 1-226 (2002) (en banc); *Winters v. Director, OWCP*, 6 BLR 1-877, 1-881 n.4 (1984). Thus, we reject employer's assertion that the administrative law judge erred in discounting Dr. Broudy's opinion that claimant did not have clinical pneumoconiosis.

Employer further argued that the administrative law judge erred in finding that Dr. Broudy's opinion that claimant did not have legal pneumoconiosis was hostile to the Act or the comments in the Federal Register. Contrary to employer's assertion, the administrative law judge permissibly accorded little weight to Dr. Broudy's opinion that claimant did not have a chronic lung disease caused by coal dust exposure because it is contrary to the Department's recognition that pneumoconiosis can be latent and progressive.¹³ See *Peabody Coal Co. v. Groves*, 277 F.3d 829, 22 BLR 2-320 (6th Cir. 2002), *cert. denied*, 537 U.S. 1147 (2003); *J.O. [Obush] v. Helen Mining Co.*, 24 BLR 1-117, 1-125-26 (2009), *aff'd sub nom. Helen Mining Co. v. Director, OWCP [Obush]*, 650 F.3d 248, 24 BLR 2-369 (3rd Cir. 2011); 65 Fed. Reg. at 79,971 (Dec. 20, 2000); 20 C.F.R. §718.201(c). In addition, the administrative law judge permissibly accorded little weight to Dr. Broudy's opinion that claimant did not have a chronic lung disease caused by coal dust exposure because it is inconsistent with the Department's recognition that coal mine dust can cause an obstructive or restrictive impairment, or both.¹⁴ *J.O. [Obush]*, 24 BLR at 1-125-26; *Consolidation Coal Co. v. Director, OWCP [Beeler]*, 521 F.3d 723, 726, 24 BLR 2-97, 2-103 (7th Cir. 2008); *Crockett Collieries, Inc. v. Barrett*, 478 F.3d 350, 23 BLR 2-472 (6th Cir. 2007); *Freeman United Coal Mining Co. v. Summers*, 272 F.3d 473, 22 BLR 2-265 (7th Cir. 2001); 65 Fed. Reg. 79,920, 79,940-43 (Dec. 20, 2000). Moreover, the administrative law judge permissibly found that Dr. Broudy's opinion that claimant did not have a chronic lung disease caused by coal dust

¹³ The administrative law judge stated that "Dr. Broudy noted that the impairment progressed after [c]laimant had stopped working in the mines and that this is unusual for coal workers' pneumoconiosis." 2010 Decision and Order on Remand at 9.

¹⁴ The administrative law judge stated that, "[e]ven though Dr. Broudy clearly diagnosed COPD, he seemed to rely on [c]laimant's response to bronchodilation in ruling out coal dust as a causative factor." 2010 Decision and Order on Remand at 9.

exposure was not well-reasoned, as he found that “the fact that [c]laimant may experience some relief from bronchodilators does not address the etiology of the fixed portion of [c]laimant’s impairment, which does not benefit from bronchodilator treatment.” 2010 Decision and Order on Remand at 9; *see Barrett*, 478 F.3d at 356, 23 BLR at 2-483; *Consolidation Coal Co. v. Swiger*, 98 F. App’x 227, 237 (4th Cir. 2004); *Summers*, 272 F.3d at 483 n.7; 22 BLR at 2-281 n.7. Further, the administrative law judge permissibly gave little weight to Dr. Broudy’s opinion that claimant did not have a chronic lung disease caused by coal dust exposure because he did not adequately explain why coal dust exposure did not at least contribute to claimant’s chronic lung disease.¹⁵ *Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 22 BLR 2-537 (6th Cir. 2002); *Groves*, 277 F.3d at 836, 22 BLR at 2-325.

Because it is supported by substantial evidence, we affirm the administrative law judge’s finding that the medical opinion evidence established the existence of clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4).¹⁶

Finally, the administrative law judge found that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c). In so finding, the administrative law judge considered Dr. Baker’s disability causation opinion. Dr. Baker opined that claimant’s coal workers’ pneumoconiosis and COPD related to coal dust exposure and cigarette smoking “fully” contributed to his respiratory impairment. Director’s Exhibit 18. On appeal before the Board, employer argued that “Dr. Baker’s vague, conclusory and unexplained opinion on the causation issue is not entitled to

¹⁵ The administrative law judge stated that, “[a]lthough [Dr. Broudy] attempted to explain the basis for his diagnosis in the deposition, I have found his reasons to be lacking in credibility.” 2010 Decision and Order on Remand at 9; *see Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 22 BLR 2-537 (6th Cir. 2002).

¹⁶ Subsequent to the Order of the United States Court of Appeals for the Sixth Circuit in this case, *Collins v. Whitaker Coal Corp.*, No. 11-4309 (Order) (6th Cir. Sept. 14, 2012), the court in *Dixie Fuel Co. v. Director, OWCP [Hensley]*, 700 F.3d 878, 25 BLR 2-213 (6th Cir. 2012), agreed with the United States Courts of Appeals for the Third and Fourth Circuits in *Penn Allegheny Coal Co. v. Williams*, 114 F.3d 22, 21 BLR 2-104 (3d Cir. 1997), and *Island Creek Coal Co. v. Compton*, 211 F.3d 203, 22 BLR 2-162 (4th Cir. 2000), that, although 20 C.F.R. §718.202(a) enumerates four distinct methods of establishing pneumoconiosis, all types of relevant evidence must be weighed together to determine whether the miner suffers or suffered from the disease. *Hensley*, 700 F.3d at 881, 25 BLR at 2-218. Because the administrative law judge’s finding that the evidence established the existence of clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a) is not inconsistent with *Hensley*, as he considered all of the relevant evidence, we need not remand the case to the administrative law judge for further consideration thereunder.

probative weight.” Employer’s Brief at 36. The Board reversed the administrative law judge’s finding that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c), on the ground that it reversed his finding that the medical opinion evidence established the existence of clinical and legal pneumoconiosis at 20 C.F.R. §718.202(a)(4). However, as noted above, the Sixth Circuit court vacated the Board’s determination that substantial evidence did not support the administrative law judge’s finding that the medical opinion evidence established the existence of pneumoconiosis at 20 C.F.R. §718.202(a)(4), and remanded the case to the Board for further consideration thereunder. *Collins*, No. 11-4309, slip op. at 5. The court also remanded the case to the Board to determine whether the administrative law judge’s disability causation finding was supported by substantial evidence. *Id.* Thus, in light of the Sixth Circuit court’s statements about Dr. Baker’s opinion in this case, we hold that the administrative law judge reasonably found that, based on Dr. Baker’s opinion, pneumoconiosis was a substantially contributing cause of claimant’s total disability. *Grundy Mining Co. v. Flynn*, 353 F.3d 467, 483, 23 BLR 2-44, 2-66 (6th Cir. 2003); *Peabody Coal Co. v. Smith*, 127 F.3d 504, 507, 21 BLR 2-180, 2-185 (6th Cir. 1997). Consequently, we affirm the administrative law judge’s finding that the evidence established total disability due to pneumoconiosis at 20 C.F.R. §718.204(c).

Accordingly, the administrative law judge’s Decision and Order on Remand awarding benefits is affirmed.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge