U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 25-0123 BLA

LOWELL SPAULDING Claimant-Petitioner v. EXCEL MINING, LLC and ALLIANCE RESOURCE PARTNERS LP Employer/Carrier-Respondents DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	**NOT-PUBLISHED** DATE ISSUED: 04/30/2026 DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Sean M. Ramaley, Administrative Law Judge, United States Department of Labor.

Jonathan C. Masters (Masters Law Office PLLC), South Williamson, Kentucky, for Claimant.

Sara May (Jones & Jones Law Office PLLC), Pikeville, Kentucky, for Employer.

Before: GRESH, Chief Administrative Appeals Judge, JONES and ULMER, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Sean M. Ramaley's Decision and Order Denying Benefits (2022-BLA-05472) rendered on a claim filed on August 21, 2019, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Act).

The ALJ found Claimant has thirty-eight years of underground coal mine employment. He determined Claimant did not establish complicated pneumoconiosis and thus could not invoke the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act. 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. Further, he found Claimant did not establish a totally disabling pulmonary or respiratory impairment, 20 C.F.R. §718.204(b)(2), and thus could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[1] 30 U.S.C. §921(c)(4); 20 C.F.R. §718.305. Because Claimant failed to establish an essential element of entitlement, the ALJ denied benefits.

On appeal, Claimant argues the ALJ erred in finding he did not establish the existence of complicated pneumoconiosis. Employer responds in support of the denial of benefits.[2] The Director, Office of Workers' Compensation Programs, has not filed a substantive response.

The Benefits Review Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.[3] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

[1] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner's total disability is due to pneumoconiosis if he has at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4); *see* 20 C.F.R. §718.305.

[2] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established thirty-eight years of qualifying coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 6.

[3] The Board will apply the law of the United States Court of Appeals for the Sixth Circuit because Claimant performed his last coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3; Hearing Transcript at 21.

Invocation of the Section 411(c)(3) Presumption

Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), provides an irrebuttable presumption that a miner is totally disabled due to pneumoconiosis if he suffers from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more opacities greater than one centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung; or (c) when diagnosed by other means, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). *See* 20 C.F.R. §718.304. In determining whether a claimant has invoked the irrebuttable presumption, the ALJ must weigh all evidence relevant to the presence or absence of complicated pneumoconiosis. *See Gray v. SLC Coal Co.*, 176 F.3d 382, 388-89 (6th Cir. 1999); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33 (1991) (en banc).

The ALJ found the chest x-ray, biopsy,[4] computed tomography (CT) scan, treatment record, and medical opinion evidence does not support a finding of complicated pneumoconiosis. 20 C.F.R. §718.304(a)-(c); Decision and Order at 21-24. Thus, he found the evidence considered as a whole does not establish complicated pneumoconiosis. Decision and Order at 24.

20 C.F.R. §718.304(a) – X-ray Evidence

The ALJ considered six interpretations of three x-rays dated February 5, 2019, January 29, 2020, and November 4, 2020.[5] Decision and Order at 22. Dr. Crum interpreted the February 5, 2019 and January 29, 2020 x-rays as positive for simple and complicated pneumoconiosis, Category A, while Dr. Simone interpreted them as negative for simple and complicated pneumoconiosis.[6] Director's Exhibits 11, 20; Claimant's Exhibit 1; Employer's Exhibit 5. Dr. Zaldivar interpreted the November 4, 2020 x-ray as positive for

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[4] We affirm, as unchallenged, the ALJ's finding that the biopsy evidence does not support a finding of complicated pneumoconiosis. *See Skrack*, 6 BLR at 1-711; 20 C.F.R. §718.304(b); Decision and Order at 22-23.

[5] The ALJ noted that Claimant's treatment records include narrative x-ray reports but found none of them included findings of large masses due to pneumoconiosis or other causes. Decision and Order at 22. Claimant does not challenge this finding and we therefore affirm it. *See Skrack*, 6 BLR at 1-711.

[6] Dr. Gaziano read the January 29, 2020 x-ray for quality purposes only. Director's Exhibit 12.

simple pneumoconiosis, while Dr. Simone read the x-ray as negative for simple and complicated pneumoconiosis. Director's Exhibits 21, 22.

The ALJ noted both Drs. Crum and Simone are dually-qualified Board-certified radiologists and B readers and found their interpretations are in equipoise. Decision and Order at 22. Thus, he determined the February 5, 2019 and January 29, 2020 x-rays do not support a finding of complicated pneumoconiosis. *Id.* He further found Dr. Simone's interpretation of the November 4, 2020 x-ray is entitled to more weight than Dr. Zaldivar's interpretation because Dr. Zaldivar is not a Board-certified radiologist or B reader. *Id.* He therefore found the November 4, 2020 x-ray establishes the absence of simple and complicated pneumoconiosis, and the x-ray evidence overall does not support a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(a). *Id.*

Claimant argues the ALJ failed to rationally analyze the interpretations of the February 5, 2019 and January 29, 2020 x-rays because he did not make any credibility determinations. Claimant's Brief at 3-5.

Contrary to Claimant's contention, the ALJ did not "[s]ide-step[] the issue of complicated pneumoconiosis" by finding the x-ray interpretations to be in equipoise. Claimant's Brief at 5. Rather, the ALJ conducted both a qualitative and quantitative analysis of each x-ray, taking into consideration the physicians' radiological qualifications.[7] *See Staton v. Norfolk & Western Ry. Co.*, 65 F.3d 55, 59 (6th Cir. 1995); *Woodward v. Director, OWCP*, 991 F.2d 314, 321 (6th Cir. 1993); Decision and Order at 22. Thus, the ALJ permissibly found the February 5, 2019 and January 29, 2020 x-rays to be insufficient to support a finding of complicated pneumoconiosis. *See Sunny Ridge Mining Co. v. Keathley*, 773 F.3d 734, 740 (6th Cir. 2014); *Staton*, 65 F.3d at 59; *Woodward*, 991 F.2d at 321; Decision and Order at 22.

Claimant does not otherwise challenge the ALJ's x-ray evidence determinations. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). Consequently, we affirm the ALJ's conclusion that the x-ray evidence does not support a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(a).

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[7] Further, Claimant expressly states that he is not arguing that the ALJ should have credited one physician's opinions over the other. Claimant's Brief at 4. Thus, Claimant has failed to explain how any error by the ALJ would have made any difference. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009).

20 C.F.R. §718.304(c) – Other Medical Evidence

The ALJ also considered CT scans, Claimant's treatment records, and medical opinion evidence and determined the weight of the other medical evidence, and the evidence as a whole, does not support a finding of complicated pneumoconiosis. Decision and Order at 7-8, 10-18, 23-24.

The ALJ considered nine interpretations of seven CT scans dated July 1, 2010, January 24, 2011, April 30, 2013, October 18, 2017, November 7, 2018, September 13, 2019, and January 13, 2022. Decision and Order at 7-8, 23-24. The July 1, 2010, January 24, 2011, April 30, 2013, October 18, 2017, November 7, 2018, and September 13, 2019 CT scans were each read by one physician as positive for simple pneumoconiosis and negative for complicated pneumoconiosis.[8] Claimant's Exhibits 3 at 10, 47-48, 50; 4 at 19-22, 31; Employer's Exhibit 3. Three physicians interpreted the January 13, 2022 scan. Dr. Brown interpreted the scan as showing multiple lung nodules indicating coal workers' pneumoconiosis but no pulmonary masses. Claimant Exhibit 6 at 53. Dr. Crum reviewed the scan and observed findings consistent with simple pneumoconiosis; additionally, he observed large opacities measuring 1.4 and 1.6 centimeters, which he found are the equivalent of Category A opacities. Claimant's Exhibit 7. Dr. Simone reviewed the scan and diagnosed simple pneumoconiosis with evidence of granulomatous disease, but he did not observe any large opacities and instead stated there is "no evidence of progressive massive fibrosis." Employer's Exhibit 7 at 3.

The ALJ found while all the readings reflect diffuse nodules consistent with a history of pneumoconiosis, Dr. Crum is the only doctor who found Category A large opacities. Decision and Order at 23. Therefore, the ALJ found Dr. Crum's reading is outweighed by the remaining readings and insufficient to satisfy Claimant's burden. *Id.*

Claimant argues the ALJ should have found the January 13, 2022 CT scan establishes complicated pneumoconiosis based on Dr. Crum's positive reading. Claimant's Brief at 5-8. Specifically, Claimant contends the ALJ erred in finding Dr. Crum's observation of large opacities on the scan "outweighed by the 'interpretations of the radiologists who originally interpreted the Claimant's CT scans.'" *Id.* at 7. In addition, he

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[8] Dr. Blake read the July 1, 2010 CT scan; Dr. Walters read the January 24, 2011 CT scan; Dr. Narra read the April 30, 2013 CT scan; Dr. Cure read the October 18, 2017 CT scan; Dr. Watson read the November 7, 2018 CT scan; Dr. Maxwell read the September 13, 2019 CT scan. Claimant's Exhibits 3 at 10, 47-48, 50; 4 at 19-22, 31; Employer's Exhibit 3.

asserts it was irrational for the ALJ to use these prior CT scan readings to bolster Dr. Simone's contrary findings. *Id.* at 8. Remand is not required on this basis.

As Claimant asserts, the ALJ did not make a specific finding concerning the January 13, 2022 CT scan based solely on the three interpretations of the scan. However, as the ALJ observed, neither Dr. Brown nor Dr. Simone[9] identified large opacities or masses in Claimant's lungs on the most recent CT scan. Decision and Order at 23. Consistent with this observation, the ALJ indicated that when weighing the evidence as a whole, aside from Dr. Crum, "none of the physicians who have reviewed the Claimant's x-rays or CT scans have concluded that he has a large mass in his lungs, due to pneumoconiosis or otherwise. Nor have the Claimant's treating physicians indicated that he has any findings consistent with complicated pneumoconiosis or progressive massive fibrosis." *Id.* Claimant has not challenged these findings, and we therefore affirm them. *Skrack*, 6 BLR at 1-711. Further, Claimant has not alleged that there is any evidence, aside from Dr. Crum's readings, of any large opacities greater than one centimeter in diameter or massive lesions in his lungs. While Claimant contends that it was irrational for the ALJ to interrelate the CT scan evidence in assessing the credibility of Dr. Crum's positive reading of the 2023 scan, the ALJ must consider all relevant evidence, 30 U.S.C. §923(b), and is afforded flexibility in how to do so. *See Gray*, 176 F.3d at 389 ("'[A]ll relevant evidence' means just that—all evidence that assists the ALJ in determining whether a miner suffers from complicated pneumoconiosis."). Thus, we affirm the ALJ's permissible finding that the evidence at 20 C.F.R. §718.304(c) as a whole is insufficient to support a finding of complicated pneumoconiosis. *Martin v. Ligon Preparation Co*., 400 F.3d 302, 305 (6th Cir. 2005); Decision and Order at 23. Consequently, Claimant has not shown how the error to which

[9] Claimant attempts to discredit Dr. Simone's classification of the changes he observed on the January 13, 2022 CT scan as being "prior granulomatous disease such as TB [tuberculosis] or histoplasmosis" by pointing out that Dr. Simone did not explain these alternative diagnoses and by stating there is nothing in the evidentiary record to support that Claimant had tuberculosis or histoplasmosis. Claimant's Brief at 7-8. However, whether there is support for these alternative diagnoses is irrelevant given that Dr. Simone did not identify any large opacities or massive lesions as 20 C.F.R. §718.304 requires. *See* Employer's Exhibit 7. Further, Claimant has not adequately explained how Dr. Simone's failure to diagnose simple pneumoconiosis on the prior chest x-rays undermines his finding of no complicated pneumoconiosis on the chest CT scan, especially when he interpreted the January 13, 2022 CT scan as positive for simple clinical pneumoconiosis, and x-rays and CT scans are different diagnostic tests. *See Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983).

he points would have altered the ALJ's overall determination. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009).

We further affirm the ALJ's finding that Dr. Crum's diagnosis of complicated pneumoconiosis, even if credible, is an outlier, as he permissibly determined that when considering the evidence as a whole at 20 C.F.R. §718.304, it does not support that "Claimant has a mass or masses greater than one centimeter, due to pneumoconiosis or otherwise." Decision and Order at 24; *see* 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304; *Gray*, 176 F.3d at 388-89. Claimant's arguments amount to a request to reweigh the evidence, which the Board is not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989).

Consequently, we affirm the ALJ's determination that Claimant did not invoke the Section 411(c)(3) presumption. Decision and Order at 24. As Claimant raises no other challenges to the ALJ's findings, we also affirm the ALJ's determination that he did not establish total disability at 20 C.F.R. §718.204(b)(2), an essential element of entitlement, and therefore is not entitled to benefits under 20 C.F.R. Part 718. *Skrack*, 6 BLR at 1-711; Decision and Order at 18-21, 24.

Accordingly, we affirm the ALJ's Decision and Order Denying Benefits.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge