U.S. Department of Labor

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

BRB No. 22-0215 BLA

JOEL COLEMAN (o/b/o PAUL R. COLEMAN)	)	
Claimant-Respondent	)	
v.	)	
CENTRAL APPALACHIAN COAL COMPANY	)	
and	)	DATE ISSUED: 8/07/2023
AMERICAN ELECTRIC POWER CORPORATION	)	
Employer/Carrier-Petitioners	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Lystra A. Harris, Administrative Law Judge, United States Department of Labor.

Mark J. Grigoraci (Robinson & McElwee PLLC), Charleston, West Virginia, for Employer and its Carrier.

Joseph E. Wolfe and Brad A. Austin (Wolfe Williams & Reynolds), Norton, Virginia, for Claimant.

Ann Marie Scarpino (Seema Nanda, Solicitor of Labor; Barry H. Joyner, Associate Solicitor; Andrea J. Appel, Counsel for Administrative Appeals), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Lystra A. Harris's Decision and Order Awarding Benefits (2020-BLA-05290) rendered on a claim filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case involves a miner's claim filed November 12, 2018.[1]

The ALJ found Central Appalachian Coal Company (Central Appalachian) is the properly designated responsible operator. She accepted the parties' stipulations that the Miner had a totally disabling respiratory or pulmonary impairment, but found Claimant could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4) (2018), because he worked for only 11.5 years in coal mine employment.[2] Considering entitlement under 20 C.F.R. Part 718, the ALJ found Claimant established both clinical and legal pneumoconiosis, 20 C.F.R. §718.202(a), and that the Miner's totally disabling respiratory or pulmonary impairment was due to pneumoconiosis. 20 C.F.R. §718.204(c). Thus, she awarded benefits.

On appeal, Employer argues the ALJ erred in finding Central Appalachian is the responsible operator. It also asserts she erred in finding Claimant established both legal

[1] The Miner died on April 8, 2021, while this claim was pending. Motion to Substitute Party and Amend Case Caption; Hearing Transcript at 4-5. His child, Joel Coleman, is pursuing the claim on behalf of the Miner's estate. *Id.*

[2] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner was totally disabled due to pneumoconiosis if he had at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305.

and clinical pneumoconiosis and total disability due to pneumoconiosis.[3] Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs (the Director), has filed a response urging affirmance of the ALJ's finding Central Appalachian is the responsible operator.

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.[4] 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 (1965).

Responsible Operator

The responsible operator is the potentially liable operator that most recently employed the miner.[5] 20 C.F.R. §725.495(a)(1). The district director is initially charged with identifying and notifying operators that may be liable for benefits, and then identifying the "potentially liable operator" that is the responsible operator. 20 C.F.R. §§725.407, 725.410(c), 725.495(a), (b). Once the district director designates a responsible operator, that operator may be relieved of liability only if it proves either that it is financially incapable of assuming liability for benefits or that another potentially liable operator that

[3] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established total disability. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); 20 C.F.R. §718.204(b)(2); Decision and Order at 26.

[4] The Miner performed his last coal mine employment in West Virginia. Director's Exhibits 8, 9; Decision and Order at 3 n.2. Thus the Board will apply the law of the United States Court of Appeals for the Fourth Circuit. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc).

[5] For a coal mine operator to meet the regulatory definition of a "potentially liable operator," each of the following conditions must be met: a) the miner's disability or death must have arisen at least in part out of employment with the operator; b) the operator or its successor must have been in business after June 30, 1973; c) the operator must have employed the miner for a cumulative period of not less than one year; d) at least one day of the employment must have occurred after December 31, 1969; and e) the operator must be financially capable of assuming liability for the payment of benefits, either through its own assets or through insurance. 20 C.F.R. §725.494(a)-(e).

is financially capable of assuming liability more recently employed the miner for at least one year. 20 C.F.R. §725.495(c)(2).

The ALJ acknowledged Employer's argument that Donner Mining (Donner) should have been designated the responsible operator because the Miner's Social Security Administration (SSA) earnings record reflects that he worked for this entity after Central Appalachian. Decision and Order at 6-8; Employer's Post-Hearing Brief at 10-11. She found the SSA record is not corroborated and thus is insufficient to establish the Miner actually worked for Donner. *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 528 (4th Cir. 1998); Decision and Order at 6-8. Specifically, the ALJ explained the Miner "consistently state[d]" on his employment forms "that his coal mine employment ended in 1984 or 1987 well before the SSA recorded employment with [Donner] in 1990." Decision and Order at 6-7. Further, she explained the Miner "never listed employment with [Donner] in the application materials nor did he include that employment in his answers to the physicians regarding his occupational history during any of the medical examination reports of record."[6] *Id*. She noted Employer "did not question [the Miner's] son regarding [the Miner's] coal mine employment in 1990 nor did Employer submit any other evidence to establish that [the Miner] actually worked for [Donner] in 1990." *Id*. "Based on the discrepancy in the record between the sole SSA record of employment with [Donner] and the absence of any other evidence of record of such employment," the ALJ concluded there was no basis to find the Miner worked for Donner in 1990 "since the sole listing in the SSA records is not corroborated by any other evidence of record." *Id*.

Separately, the ALJ found that even if the Miner worked for Donner in 1990, there is no basis to find he was employed as a coal miner for it.[7] Decision and Order at 7-8. She

[6] The ALJ acknowledged Dr. Zaldivar stated in his medical opinion that the Miner worked in coal mines until 1997 or 1998, but she concluded this was a typographical error, as the other medical opinions of record unanimously indicate the Miner's employment ended in 1984. Decision and Order at 7.

[7] A "miner" is "any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal." 30 U.S.C. §902(d). The United States Court of Appeals for the Fourth Circuit, within whose jurisdiction this case arises, has held that work duties meeting situs and function requirements constitute the work of a miner as defined in the Act. *See Director, OWCP v. Consolidation Coal Co.* [*Krushansky*], 923 F.2d 38, 41 (4th Cir. 1991); *Amigo Smokeless Coal Co. v. Director, OWCP* [*Bower*], 642 F.2d 68, 70 (4th Cir. 1981); *Collins v. Director, OWCP*, 795 F.2d 368, 372-73 (4th Cir. 1986). Under the situs requirement, the work must take place in or around a coal mine or coal preparation facility; under the function requirement, the work must be integral or necessary to the extraction or preparation of coal

explained "there is no evidence that establishes [the Miner] worked in or around a coal mine or coal preparation facility in the extraction, preparation, or transportation of coal, or worked in coal mine construction or maintenance in or around a coal mine or coal preparation facility for Donner." *Id*. Based on these findings, the ALJ determined Employer failed to establish Donner should have been the named the responsible operator. *Id*.

In challenging the ALJ's findings, Employer asserts that if the ALJ had applied the calculation method at 20 C.F.R. §725.101(a)(32)(iii)[8] in conjunction with the SSA record to calculate the length of the Miner's employment with Donner, she would have found he worked there for one year. Employer's Brief at 10-11. Alternatively, it argues the ALJ should have applied the United States Court of Appeals for the Sixth Circuit's decision in *Shepherd v. Incoal, Inc.*, 915 F.3d 392, 402 (6th Cir. 2019), and found eight months of coal mine employment sufficient to establish a full year. *Id*.

Employer identifies no error, however, in the ALJ's finding that the SSA record is not credible and thus insufficient to establish the Miner actually worked for Donner because it is not corroborated by any other evidence of record. *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); *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983); Decision and Order at 7-9. Nor does

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rather than merely incidental or ancillary. *See Krushansky*, 923 F.2d at 41-42. The implementing regulation provides "a rebuttable presumption that any person working in or around a coal mine or coal preparation facility is a miner." 20 C.F.R. §725.202(a); *see also* 20 C.F.R. §725.101(a)(19).

[8] Pursuant to 20 C.F.R. §725.101(a)(32)(iii):

> If the evidence is insufficient to establish the beginning and ending dates of the miner's coal mine employment, or the miner's employment lasted less than a calendar year, then the adjudication officer may use the following formula: divide the miner's yearly income from work as a miner by the coal mine industry's daily average earnings for that year, as reported by the Bureau of Labor Statistics (BLS).

The BLS data is reported in Exhibit 610 of the *Coal Mine* (*Black Lung Benefits Act*) *Procedure Manual.*

Employer identify error in the ALJ's finding that it failed to establish the Miner worked in coal mine employment for Donner.[9] *Id*. Thus we affirm these findings.

As Employer raises no other argument, we affirm the ALJ's finding that Employer is the properly designated responsible operator, as it failed to establish another potentially liable operator more recently employed the Miner for one year. 20 C.F.R. §§725.494, 725.495.

Entitlement – 20 C.F.R. Part 718

To be entitled to benefits under the Act, Claimant must establish disease (pneumoconiosis); disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment); and disability causation (pneumoconiosis substantially contributed to the disability). 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of the elements precludes an award of benefits. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

Legal Pneumoconiosis

[9] Employer generally argues the Miner "is presumed to have been exposed to coal mine dust" while working for Donner and it is presumed his "alleged coal workers' pneumoconiosis arose in whole or in part out of his employment" with Donner. Employer's Brief at 9. Thus it argues the Miner was presumed to have worked in coal mine employment for Donner. *Id*. In support, it generally cites, with no explanation as to their applicability, two regulatory provisions at 20 C.F.R. §725.493(a)(6) and 20 C.F.R. §725.492(c). But the former citation is not a regulation, while the latter relates to successor operator relationships, not presumptions relating to a miner's exposure to coal mine dust. To the extent Employer intended to reference the presumptions found at 20 C.F.R. §725.202, the regulations include a rebuttable presumption that any person working in or around a coal mine or coal preparation facility is a miner. 20 C.F.R. §725.202(a). Further, special provisions at 20 C.F.R. §725.202(b) relate to coal mine construction and transportation workers. Employer has not challenged the ALJ's finding that "there is no evidence that establishes that [the Miner] worked in or around a coal mine or coal preparation facility in the extraction, preparation, or transportation of coal, or worked in coal mine construction or maintenance in or around a coal mine or coal preparation facility for Donner." Decision and Order at 7-8.

To establish legal pneumoconiosis, Claimant must demonstrate the Miner had a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). The United States Court of Appeals for the Fourth Circuit, within whose jurisdiction this case arises, has held a miner can establish legal pneumoconiosis by showing coal dust exposure contributed "in part" to his respiratory or pulmonary impairment. *See Westmoreland Coal Co., Inc. v. Cochran*, 718 F.3d 319, 322-23 (4th Cir. 2013); *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 311 (4th Cir. 2012); *see also Arch on the Green v. Groves*, 761 F.3d 594, 598-99 (6th Cir. 2014) (miner can establish a lung impairment is significantly related to coal mine dust exposure "by showing that his disease was caused 'in part' by coal mine employment.").

The ALJ considered the medical opinions of Drs. Ajjarapu, Zaldivar, Werchowski, Ranavaya, and Green. Director's Exhibit 14; Claimant's Exhibits 1, 5, 6; Employer's Exhibits 1, 3, 11, 12; Decision and Order at 32-36. Dr. Ajjarapu opined the Miner had legal pneumoconiosis in the form of chronic bronchitis arising out of coal mine employment. Director's Exhibit 14 at 8. Dr. Werchowski opined the Miner had legal pneumoconiosis in the form of chronic obstructive pulmonary disease (COPD) and emphysema due to both cigarette smoking and coal mine dust exposure. Claimant's Exhibit 1 at 3; Employer's Exhibit 12 at 7-10. Dr. Green also opined the Miner had legal pneumoconiosis in the form of COPD with emphysema due to both smoking and coal mine dust exposure. Claimant's Exhibit 4 at 4-6; Hearing Transcript at 38-39.

In contrast Dr. Zaldivar opined the Miner did not have legal pneumoconiosis and instead had emphysema and pulmonary fibrosis caused by smoking. Employer's Exhibit 1 at 5. Dr. Ranavaya also opined the Miner did not have legal pneumoconiosis but had emphysema and "underlying airway hyperresponsiveness" caused by smoking and possible asbestos exposure. Employer's Exhibits 3 at 11-17, 11 at 4-5.

The ALJ assigned slightly less weight to Dr. Ajjarapu's opinion because she did not review medical records developed after her examination. Decision and Order at 32. In addition, she discredited the opinions of Drs. Ranavaya and Zaldivar as inadequately reasoned and contrary to the objective testing. *Id.* at 33-35. She found, however, the opinions of Drs. Werchowski and Green reasoned and documented. *Id.* at 35. Thus, she determined the medical opinion evidence supports a finding of legal pneumoconiosis. *Id.* at 36.

Employer argues the ALJ should have discounted Dr. Werchowski's opinion because of his affiliation with the Boone Memorial Hospital Black Lung Center (Black

Lung Center).[10] Employer's Brief at 13-14; Employer's Reply to Claimant's Brief at 1-5. It contends that, because the Black Lung Center advertises that it assists coal miners in filing black lung claims, the medical opinions of physicians associated with the Black Lung Center are biased in favor of claimants. Employer's Brief at 13; Employer's Reply to Claimant's Brief at 1-3. This argument is unpersuasive.

In the absence of specific evidence of bias on the part of a medical expert, party affiliation is not a dispositive factor in determining the weight to be assigned to the medical evidence of record. *See Urgolites v. BethEnergy Mines, Inc.*, 17 BLR 1-20, 1-23 n.4 (1992); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-35-36 (1991) (en banc) (it is error to discredit, as biased, a medical report prepared for litigation absent a specific basis for finding the report unreliable). Employer has identified no evidence in the record indicating Dr. Werchowski demonstrated bias in the examination or opinions he rendered in this case. Thus, as Employer has not supported its contention that Dr. Werchowski's opinion should be discredited as biased, nor has it cited legal authority for its position, we reject its argument.[11]

Employer next contends the ALJ erred in finding the opinions of Drs. Werchowski and Green reasoned and documented. Employer's Brief at 18. We disagree.

In addressing legal pneumoconiosis, Dr. Werchowski stated the Miner's pulmonary function testing is consistent with "a moderate[,] approaching severe[,] obstructive airway disease with mild chronic restriction" and noted there was "no response to bronchodilator therapy." Claimant's Exhibit 1 at 3. He concluded the Miner had legal pneumoconiosis "as represented by his history of cough and mucus production as well as wheezing for several years," and as "supported by his pulmonary function tests showing moderate to severe airflow obstruction with a low diffusing capacity consistent with COPD and

[10] The literature submitted by Employer refers to the clinic variously as Boone Memorial Hospital Black Lung Center and The Black Lung Center at Boone Memorial Hospital. *See* Employer's Exhibit 5.

[11] The ALJ recognized that Dr. Werchowski testified he has an affiliation with the Boone Memorial Hospital Black Lung Center and examined the Miner there. Decision and Order at 16, *citing* Employer's Exhibit 12 at 1-5. She noted the doctor stated "he has not participated in the outreach events at the Black Lung Center and he has not personally assisted a miner in filing a claim for Federal Black Lung Benefits." *Id.* In addition, she noted he testified "he is hired by the hospital and is an unbiased examiner since he does not work for the coal company or for the coal miner." *Id.* Finally, she highlighted that, on "redirect examination, Dr. Werchowski stated that when he sees twenty miners, he might only find two to four that have total disability due to Black Lung." *Id.*

emphysema." *Id*. Specifically, he opined the "COPD and emphysema are related to [the Miner's] coal and rock dust exposure in coal mines" and his twenty-two years of smoking. *Id*.

During his deposition, Dr. Werchowski indicated the Miner's resting hypoxemia on arterial blood gas testing further supports his legal pneumoconiosis diagnosis. Employer's Exhibit 12 at 7. He also stated smoking and coal mine dust exposure are additive and the Miner had both exposures. *Id*. at 8. Because the Miner was a coal miner for greater than ten years and a smoker for greater than twenty years, Dr. Werchowski opined both exposures contributed to his COPD. *Id*. at 17-18. In addition, he cited the Miner's "job description of his working as a shuttle car operator, fire boss, a welder, doing work in the section, [and] the fact that he stated that he did not wear a respirator," to support his diagnosis, as the Miner experienced "significant inhalation of coal dust, likely rock dust as well." *Id*. a 15.

The ALJ permissibly found Dr. Werchowski's opinion is reasoned and documented based on his consideration of the Miner's objective testing and symptoms. *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 316 (4th Cir. 2012); *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Decision and Order at 35. She explained he considered the Miner's exposure histories in reaching his conclusion and his diagnosis is consistent with the discussion in the preamble to the 2001 revised regulations regarding the additive nature of coal mine dust exposure and cigarette smoking. *See Westmoreland Coal Co. v. Stallard*, 876 F.3d 663, 674 (4th Cir. 2017) (ALJ may rely on the principle from the preamble that the effects of smoking and coal dust exposure are "additive"); 65 Fed. Reg. 79,940, 79,941, 79,943 (Dec. 20, 2000); Decision and Order at 35.

Dr. Green noted the Miner "has a history of chronic shortness of breath with exertion, cough[ing], wheeze[ing], and mucus expectoration." Claimant's Exhibit 5 at 4-5. He diagnosed COPD and emphysema based on the Miner's pulmonary function testing that demonstrated "persistent, consistent findings of moderate to severe airflow obstruction which is disabling in degree" and not responsive to bronchodilators. *Id*. Further, he cited the Miner's "severely reduced' diffusion capacity and hypoxemia on blood gas testing. *Id*. He concluded "[t]hese objective measurements along with the Miner's symptoms as described all form the basis to conclude that the legal diagnosis of coal workers' pneumoconiosis is established." *Id*. In addition, he cited "numerous articles that support the association of working in coal mining and exposure to respirable coal and rock dust and the presence of chronic airflow obstruction and [COPD]." *Id*. at 6-7. He concluded that the Miner's "description of his underground coal mining over the course of 11.45 years," including exposure to coal and rock dust, supports that the Miner had legal pneumoconiosis. *Id*. at 5-6.

The ALJ permissibly found Dr. Green's opinion is reasoned and documented. *Looney*, 678 F.3d at 316; *Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order at 35. She noted "Dr. Green persuasively explained that he consider[ed] [the Miner's] symptoms, occupational history, smoking history, medical history, physical findings and test results in the context of a patient's individual findings." Decision and Order at 35. In addition, she found he "stated he does not always assume that occupational exposure to coal mine dust is always a substantially contributing factor of a miner's COPD and emphysema; rather, he combines his medical judgment with the aspects of history, test results, occupational exposure, and smoking history." *Id.*

Employer's arguments amount to a request to reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). We thus affirm the ALJ's finding Drs. Werchowski's and Green's opinions reasoned and documented.

Employer next contends the ALJ erred in discrediting Dr. Zaldivar's opinion. Employer's Brief at 15. We disagree. Based on his review of the medical record, Dr. Zaldivar opined the Miner had emphysema and pulmonary fibrosis due to cigarette smoking. Employer's Exhibit 1 at 4-5. He explained medical literature indicates that cigarette smoking causes the combination of emphysema and fibrosis. *Id*. In this case, he concluded there is "no evidence" of legal pneumoconiosis because cigarette smoking can explain the Miner's lung diseases. *Id*. The ALJ permissibly found Dr. Zaldivar failed to adequately explain why the Miner's history of coal mine dust exposure did not significantly contribute, along with his smoking, to his emphysema and pulmonary fibrosis. *See Stallard*, 876 F.3d at 673-74 n.4 (ALJ permissibly discredited medical opinions that "solely focused on smoking" as a cause of obstruction and "nowhere addressed why coal dust could not have been an additional cause"); *Mingo Logan Coal Co. v. Owens*, 724 F.3d 550, 558 (4th Cir. 2013) (ALJ permissibly discredited physicians who failed to adequately explain why the miner's lung disease was not "significantly related to, or substantially aggravated by" his coal mine dust exposure); 20 C.F.R. §718.201(a)(2), (b); Decision and Order at 33.

Employer next contends the ALJ erred in discrediting Dr. Ranavaya's opinion. Employer's Brief at 16-18. We again disagree.

In support of his opinion that the Miner's COPD was caused by cigarette smoke rather than coal mine dust exposure, Dr. Ranavaya cited studies suggesting that COPD caused by coal mine dust exposure results in reduced FEV1 values with a preserved FEV1/FVC ratio on pulmonary function testing, while COPD caused by tobacco smoke results in lowering of both measures. Employer's Exhibit 3 at 15. He then reasoned, that because the Miner demonstrated reductions in both FEV1 and FEV1/FVC ratio in his

pulmonary function studies, the Miner's COPD was caused by smoking rather than coal dust. *Id*. The ALJ permissibly discredited his opinion as inconsistent with the DOL's recognition that coal dust exposure may also cause COPD with associated decrements in the FEV1/FVC ratio. *See Stallard*, 876 F.3d at 671-72; 65 Fed. Reg. at 79,943; Decision and Order at 34.

Dr. Ranavaya further opined the Miner had long-standing asthma and airway hyper-responsiveness which were aggravated by smoking and resulted in airway remodeling, contributing to the Miner's fixed obstructive impairment. Employer's Exhibit 3 at 16-17. He concluded the Miner's smoking "directly and primarily caused his [COPD] which was further aggravated by his underlying airway hyperresponsiveness with airway remodeling, which in this case is . . . the sole cause of his FEV1 decline as observed on the spirometry." *Id*. at 18. The ALJ noted Dr. Ranavaya's diagnosis of asthma as a contributor to the Miner's impairment was at odds with the opinions of Drs. Werchowski and Green, who opined that the objective testing of record did not establish the presence of asthma, and therefore discredited Dr. Ranvaya's opinion on this ground. Decision and Order at 34-35. Employer has not identified any specific error in the ALJ's finding, beyond its incorrect allegation that Dr. Ranavaya attributed the Miner's impairment solely to smoking rather than the combined effects of smoking and asthma; thus we affirm the ALJ's finding. *See Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983); Decision and Order at 34-35; Employer's Brief at 17-18.

Finally, the ALJ permissibly found Dr. Ranavaya failed to adequately explain why the Miner's history of coal mine dust exposure did not significantly contribute, along with smoking, to his respiratory conditions.[12] *See Stallard*, 876 F.3d at 673-74 n.4; *Owens*, 724 F.3d at 558; 20 C.F.R. §718.201(a)(2), (b); Decision and Order at 33-34. As it is supported

[12] As the ALJ provided valid rationales for discrediting the opinions of Drs. Ranavaya and Zaldivar on legal pneumoconiosis, we need not consider Employer's additional arguments concerning the weight she afforded their opinions. *Kozele v. Rochester & Pittsburg Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); Employer's Brief at 15-18.

by substantial evidence, we affirm the ALJ's finding that Claimant established legal pneumoconiosis.[13] 20 C.F.R. §718.202(a).[14]

Further, having found the medical opinions establish the existence of legal pneumoconiosis, the ALJ was not required to separately determine the cause of the Miner's legal pneumoconiosis at 20 C.F.R. §718.203, as her finding at 20 C.F.R. §718.202(a)(4) necessarily subsumed that inquiry. *Henley v. Cowan & Co.*, 21 BLR 1-147, 1-151 (1999); Decision and Order at 36-37.

Disability Causation

To establish disability causation, Claimant must prove the Miner's legal pneumoconiosis was a "substantially contributing cause" of his totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Pneumoconiosis is a substantially contributing cause if it has "a material adverse effect on the miner's respiratory or pulmonary condition," or if it "[m]aterially worsens a totally disabling respiratory or pulmonary impairment which is caused by a disease or exposure unrelated to coal mine employment." 20 C.F.R. §718.204(c)(1)(i), (ii); *see Robinson v. Pickands Mather & Co.*, 914 F.2d 35, 37-38 (4th Cir. 1990).

The ALJ found the opinions of Drs. Werchowski and Green reasoned and documented on the issue of total disability causation and sufficient to establish "legal pneumoconiosis was a substantially contributing cause of the [M]iner's totally disabling respiratory or pulmonary impairment." Decision and Order at 38. In challenging this finding, Employer reiterates its argument that their opinions are not credible on the issue

[13] Because the ALJ's finding that Claimant established legal pneumoconiosis is supported by the opinions of Drs. Werchowski and Green, we need not consider Employer's arguments concerning the weight she afforded Dr. Ajjarapu's opinion. *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Employer's Brief at 18.

[14] Thus, we need not address Employer's arguments on clinical pneumoconiosis. *Larioni*, 6 BLR at 1-1278; Employer's Brief at 11-12.

of legal pneumoconiosis. Employer's Brief at 19-20. As it does not separately challenge the ALJ's finding that the opinions of Drs. Werchowski and Green are credible on the issue total disability causation, and because we have rejected its arguments on legal pneumoconiosis, we affirm her finding that their opinions are reasoned and documented on total disability due to legal pneumoconiosis. *Skrack,* 6 BLR at 1-711.

Further, the ALJ permissibly discredited the opinions of Drs. Zaldivar and Ranavaya on the cause of the Miner's respiratory disability because they did not diagnose legal pneumoconiosis. *Toler v. E. Assoc. Coal Corp.*, 43 F.3d 109, 116 (4th Cir. 1995) (doctor's opinion as to causation may not be credited unless there are "specific and persuasive reasons" for concluding it is independent of their mistaken belief the miner did not have pneumoconiosis); Decision and Order at 37-38. As substantial evidence supports the ALJ's finding that the Miner was totally disabled due to legal pneumoconiosis, we affirm it. 20 C.F.R. §718.204(c).

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge