



BRB No. 25-0132 BLA

SHANNON BELCHER)
)
 Claimant-Respondent)
)
 v.)
)
 CAM MINING, LLC)
)
 and)
)
 ROCKWOOD CASUALTY INSURANCE)
 COMPANY)
)
 Employer/Carrier-)
 Petitioners)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Party-in-Interest)

NOT-PUBLISHED

DATE ISSUED: 03/11/2026

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Stephen D. Bell, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe, Donna E. Sonner, and Cameron Blair (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

Denise Hall Scarberry (Baird & Baird, PSC), Pikeville, Kentucky, for Employer and its Carrier.

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

PER CURIAM:

Employer and its carrier (Employer) appeal Administrative Law Judge (ALJ) Stephen D. Bell's Decision and Order Awarding Benefits (2020-BLA-06114) rendered on a claim filed on July 29, 2019, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).¹

The ALJ credited Claimant with at least fifteen years of qualifying coal mine employment and found he has complicated pneumoconiosis, thereby invoking the irrebuttable presumption of total disability due to pneumoconiosis pursuant to Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3) (2018). 20 C.F.R. §718.304. He further found Claimant's complicated pneumoconiosis arose out of his coal mine employment and awarded benefits. 20 C.F.R. §718.203(b).

On appeal, Employer argues the ALJ erred in finding Claimant established complicated pneumoconiosis. Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response brief.²

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 into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

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,

¹ This is Claimant's second claim for benefits. Claimant previously filed a claim and withdrew it. Director's Exhibit 1. A withdrawn claim is "considered not to have been filed." 20 C.F.R. §725.306(b).

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

³ This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit as Claimant performed his coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 25.

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 Claimant has invoked the irrebuttable presumption, the ALJ must consider 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. Consol. Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc).

The ALJ found the computed tomography (CT) scan evidence supports a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(c), while the x-ray evidence does not establish complicated pneumoconiosis and the medical opinion evidence is inconclusive as to complicated pneumoconiosis.⁴ Decision and Order at 6-18. Weighing all the evidence together, he found Claimant established complicated pneumoconiosis and thus invoked the irrebuttable presumption. *Id.* at 18.

Employer argues the ALJ erred in weighing the CT scan evidence, medical opinion evidence, and the evidence as a whole.⁵ Employer's Brief at 5-11 (unpaginated). We disagree.

⁴ The parties did not designate any biopsy evidence for consideration at 20 C.F.R. §718.304(b). Decision and Order at 6; Claimant's Evidence Summary Form at 6; Employer's Evidence Summary Form at 6.

⁵ Though not directly at issue in this appeal, we note, for background purposes, the ALJ considered eight interpretations by dually-qualified Board-certified radiologists and B readers of five x-rays. Decision and Order at 7-8. Drs. DePonte and Crum interpreted Claimant's August 25, 2019 x-ray as positive for simple pneumoconiosis of 3/3 and 3/2 profusion and as negative for complicated pneumoconiosis. Director's Exhibits 14 at 25, 19 at 2. Dr. Crum additionally noted coalescence of opacities. Director's Exhibit 19 at 3. Dr. DePonte interpreted Claimant's July 2, 2020 x-ray as positive for a Category A opacity and 3/3 profusion simple pneumoconiosis with coalescence, while Dr. Simone interpreted it as negative and showing small granulomas in Claimant's lower lobes. Claimant's Exhibit 7 at 2; Employer's Exhibit 2 at 4. Dr. Simone interpreted Claimant's January 11, 2021 x-ray as negative for pneumoconiosis. Employer's Exhibit 7 at 4. Dr. DePonte interpreted his June 7, 2021 and June 8, 2021 x-rays as positive for simple pneumoconiosis of 3/2 profusion with coalescence and negative for complicated pneumoconiosis but noted "Digital CT [scan] may reveal [a C]ategory A opacity obscured by the high profusion [of small opacities on x-ray]," while Dr. Simone interpreted the latter x-ray as negative for pneumoconiosis. Claimant's Exhibits 1 at 25, 5 at 21; Employer's Exhibit 8 at 4. The ALJ found: the August 25, 2019 x-ray is positive for simple pneumoconiosis and negative for

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

CT Scans

The ALJ weighed Dr. Crum’s interpretation of a sole CT scan dated September 2, 2020.⁶ Decision and Order at 9-10. Dr. Crum observed “extensive bilateral subcentimeter pulmonary nodules;” “multiple areas of coalescence,” which he stated “is a common and classical appearance of black lung disease;” and “multiple large opacity’s [sic] measuring just over a centimeter in size when combined has a measurement greater than 5 cm consistent with category B complicated pneumoconiosis.”⁷ Claimant’s Exhibit 8 at 2.

The ALJ found a CT scan is a medically acceptable and relevant means of assessing pneumoconiosis based on Dr. Crum’s statement that he reviewed the September 2, 2020 CT scan “for the presence or absence of findings consistent with black lung disease” and Dr. Jarboe’s testimony that he prefers CT scans over x-rays for diagnosing complicated pneumoconiosis.⁸ Decision and Order at 10; Claimant’s Exhibit 8 at 3; Employer’s Exhibit

complicated pneumoconiosis; the interpretations of the July 2, 2020 x-ray are in equipoise for simple and complicated pneumoconiosis; the January 11, 2021 x-ray is negative for both simple and complicated pneumoconiosis; the June 7, 2021 x-ray is positive for simple pneumoconiosis and negative for complicated pneumoconiosis; and the interpretations of the June 8, 2021 x-ray are in equipoise as to simple pneumoconiosis and negative for complicated disease. Decision and Order at 8-9. He thus found the preponderance of x-ray evidence positive for simple pneumoconiosis but negative for complicated pneumoconiosis. *Id.* at 9.

⁶ In weighing the x-ray evidence of record, the ALJ accurately observed that Dr. Crum is a dually-qualified Board-certified radiologist and B reader. Decision and Order at 7; Claimant’s Exhibit 3 at 3.

⁷ Specifically, Dr. Crum identified five large opacities in Claimant’s right lung measuring between 1.1 cm and 1.6 cm in size, and three large opacities in his left lung measuring between 1.1 cm and 1.2 cm in size. Claimant’s Exhibit 8 at 2.

⁸ During cross-examination, Dr. Jarboe testified:

Q: And when we talk about the ability to diagnose complicated coal workers’ pneumoconiosis, would you rather have a frontal view chest x-ray that has shadows and obstructions like ribs and things like that that can get in the way, or would you rather look at a CT scan?

14 at 31-32. Because Dr. Crum's CT scan interpretation is uncontradicted, the ALJ found the CT scan evidence supports a finding of complicated pneumoconiosis. Decision and Order at 10.

In challenging the ALJ's finding, Employer first asserts the ALJ failed to consider Dr. Crum's interpretation of the August 25, 2019 x-ray as positive for only simple pneumoconiosis in assessing the probative weight of his subsequent CT scan interpretation. Employer's Brief at 6 (unpaginated). But by Employer's own admission, x-rays and CT scans are separate diagnostic tests, and Employer has not explained how Dr. Crum's identification of simple pneumoconiosis of 3/2 profusion with coalescence on x-ray undermines his identification of multiple large opacities amounting to a diagnosis of a Category B opacity by CT scan. 20 C.F.R. §802.211(b); *see Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983); Director's Exhibits 19 at 2; Claimant's Exhibit 8 at 2. We thus reject Employer's assertion of error.

Similarly, because x-rays and CT scans are different diagnostic tests, we reject Employer's assertion that the ALJ erred in failing to address Dr. Dahhan's testimony concerning Claimant's prior sternum surgery potentially causing shadows that mimic opacities of pneumoconiosis on x-ray when considering the CT scan evidence. Employer's Brief at 5-6 (unpaginated); Employer's Exhibit 13 at 15. Employer has not explained how diagnostic limitations concerning x-rays pertain to diagnoses by CT scan. 20 C.F.R. §802.211(b); *see Sarf*, 10 BLR at 1-120-21; *Fish*, 6 BLR at 1-109. Further, the ALJ, in his evaluation of the medical opinion evidence, addressed Dr. Dahhan's alternative explanation and permissibly found it speculative as to the absence of complicated pneumoconiosis on CT scan as Dr. Dahhan did not interpret Claimant's September 2, 2020 CT scan. *See Director, OWCP v. Rowe*, 710 F.2d 251, 255 (6th Cir. 1983); Decision and Order at 13.

As Dr. Crum's reading of the September 2, 2020 CT scan as positive for complicated pneumoconiosis is uncontradicted, we affirm the ALJ's finding that the CT scan evidence supports a finding of complicated pneumoconiosis.

Medical Opinions

The ALJ considered five medical opinions, all of which diagnosed simple pneumoconiosis based on x-ray evidence. Dr. Raj stated Claimant may have complicated

A: I'd rather look at a CT scan.

Employer's Exhibit 14 at 31-32.

pneumoconiosis. Claimant's Exhibit 5 at 6. Drs. Green and Shamma-Othman were silent as to complicated pneumoconiosis. Director's Exhibits 14 at 4, 20 at 1-2, 58 at 1; Claimant's Exhibit 1 at 4. Drs. Dahhan and Jarboe opined Claimant does not have complicated pneumoconiosis. Employer's Exhibits 5 at 23, 10 at 5-9, 13 at 15-16, 14 at 21, 23. The ALJ found the opinions of Drs. Raj, Green, and Shamma-Othman do not weigh against a finding of complicated pneumoconiosis and that the opinions of Drs. Dahhan and Jarboe are not well-reasoned. Decision and Order at 11-17. He thus found the medical opinions as a whole are inconclusive as to the presence or absence of complicated pneumoconiosis. *Id.* at 17. Employer asserts the ALJ erred in finding the opinions of its experts not well-reasoned. Employer's Brief at 6-10 (unpaginated). We disagree.

Dr. Dahhan evaluated Claimant on July 2, 2020, and reviewed all of the x-ray and CT scan evidence of record. Employer's Exhibit 13 at 5, 14-16. He opined Claimant does not have complicated pneumoconiosis because the totality of the x-ray evidence does not support the presence of a large opacity, further adding that scarring from Claimant's prior sternum surgery can produce shadows and abnormalities on x-ray that mimic the appearance of opacities of pneumoconiosis. *Id.* at 15. Dr. Dahhan further opined that Claimant's positive CT scan evidence "would not carry as much weight" when "taking the entire [radiographic] data into account." *Id.* at 16.

The ALJ found Dr. Dahhan's opinion not well-reasoned because he did not address Dr. DePonte's x-ray comments indicating that CT scans could reveal a large opacity obscured by the high profusion of small opacities on x-rays, nor adequately explain why he found the x-ray evidence more probative than the CT scan evidence despite speculating that scarring from Claimant's prior sternum surgery might impact the x-ray interpretations.⁹ Decision and Order at 13. In challenging the ALJ's credibility finding, Employer asserts the ALJ should have found Dr. Dahhan's opinion well-reasoned because he considered the entirety of the medical evidence, including Claimant's medical and occupational histories. Employer's Brief at 7 (unpaginated). Employer additionally asserts the ALJ erred in discounting Dr. Dahhan's opinion based on Dr. DePonte's comments on her June 7, 2021 and June 8, 2021 x-ray interpretations, which Employer alleges speculate as to what a CT scan might show. *Id.* at 7-8. But we see no error in the ALJ's credibility determination.

⁹ Although Dr. DePonte observed a Category A opacity on Claimant's July 2, 2020 x-ray and did not observe such an opacity on Claimant's June 7, 2021 and June 8, 2021 x-rays, she noted on both 2021 x-rays that a concurrent CT scan "may reveal [a] Category A opacity obscured by the high profusion [of small opacities on x-ray]." Claimant's Exhibits 1 at 25, 5 at 21, 7 at 2.

Contrary to Employer's assertion, the ALJ was not required to credit Dr. Dahhan's opinion merely because the physician considered the entirety of the medical evidence. See *Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-22 (1987) (a physician's report is reasoned if the underlying documentation supports the doctor's assessment of the miner's health). It is within the purview of the ALJ to weigh the evidence, draw inferences, and determine credibility. *Morrison v. Tenn. Consol. Coal Co.*, 644 F.3d 473, 478 (6th Cir. 2011); *Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 713-14 (6th Cir. 2002); *Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989). As all of the evidence of record concerning the comparability of x-rays and CT scans suggests CT scans can more accurately diagnose complicated pneumoconiosis than x-rays can, and as substantial evidence supports the ALJ's finding that Dr. Dahhan did not explain why he found the negative x-ray evidence more probative than the positive CT scan evidence, we affirm the ALJ's finding that Dr. Dahhan's opinion is not well-reasoned. See *Morrison*, 644 F.3d at 478; *Napier*, 301 F.3d at 713-14; *Crisp*, 866 F.2d at 185; Claimant's Exhibits 1 at 25, 5 at 21; Employer's Exhibit 14 at 31-32.

Dr. Jarboe examined Claimant on March 25, 2021, and reviewed most of the radiographic evidence of record.¹⁰ He doubted the accuracy of a complicated pneumoconiosis diagnosis by x-ray and CT scan because the overall x-ray evidence does not support a finding of a large opacity. Employer's Exhibits 10 at 9, 14 at 23. He indicated Dr. DePonte's interpretation of Claimant's June 7, 2021 and June 8, 2021 x-rays as negative for complicated pneumoconiosis are inconsistent with her interpreting the earlier July 2, 2020 x-ray as positive for a Category A opacity because complicated pneumoconiosis does not go away, but also characterized her interpretation of the three x-rays as relatively consistent.¹¹ Employer's Exhibit 14 at 22-23, 32-33. Further, Dr. Jarboe stated that Dr. Crum was "correct" to find a Category B opacity on the CT scan by adding together observed opacities measuring greater than one centimeter but also stated Dr. Crum incorrectly found a Category B opacity by adding together opacities that x-rays showed to

¹⁰ Dr. Jarboe reviewed: Dr. Crum's interpretation of the September 2, 2020 CT scan; Dr. DePonte's interpretations of Claimant's June 7, 2021 and June 8, 2021 x-rays; and Dr. Simone's interpretations of Claimant's July 2, 2020, January 11, 2021, and June 8, 2021 x-rays. Employer's Exhibit 10 at 9.

¹¹ On cross-examination during his deposition, Dr. Jarboe conceded there was not much difference between Dr. DePonte's diagnosing 3/3 profusion with coalescence and a Category A opacity on the July 2, 2020 x-ray and her diagnosing 3/2 profusion with coalescence plus her notation that a CT scan could confirm a suspected Category A on the June 7, 2021 and June 8, 2021 x-rays. Employer's Exhibit 14 at 31-32; see also Claimant's Exhibits 1 at 25, 5 at 21.

be “small” opacities. *Id.* at 52-54. The ALJ found Dr. Jarboe’s opinion not well-reasoned because his statements concerning Dr. DePonte’s x-ray interpretations and Dr. Crum’s calculating a finding of a Category B opacity on the CT scan are internally inconsistent and because Dr. Jarboe failed to explain his reliance on Claimant’s x-rays given his concession that he preferred CT scans for diagnosing complicated pneumoconiosis. Decision and Order 15-16; Employer’s Exhibit 14 at 31-32. In challenging the ALJ’s finding, Employer asserts only that the ALJ misconstrued Dr. Jarboe’s statements on cross-examination concerning the consistency of Dr. DePonte’s three x-ray interpretations. Employer’s Brief at 9-10 (unpaginated). Employer does not challenge the ALJ’s finding that Dr. Jarboe offered inconsistent statements concerning the propriety of Dr. Crum’s diagnosis of complicated pneumoconiosis by CT scan, nor his finding that Dr. Jarboe failed to explain his reliance on x-ray over CT scan evidence given his stated preference for diagnosing complicated disease by CT scan. Decision and Order at 15-16. As we see no error in these findings and Employer does not challenge them, we affirm the ALJ’s finding that Dr. Jarboe’s opinion is not well-reasoned. *See Morrison*, 644 F.3d at 478; *Napier*, 301 F.3d at 713-14; *Crisp*, 866 F.2d at 185; *see also Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983) (ALJ need only state one valid reason for credibility determination).

Consequently, we affirm the ALJ’s finding that the medical opinion evidence is inconclusive on complicated pneumoconiosis. Decision and Order at 17.

Evidence as a Whole

We also reject Employer’s assertion that the ALJ did not adequately explain his conclusion that Claimant established complicated pneumoconiosis based on the record as a whole and invoked the irrebuttable presumption. Employer’s Brief at 10-11 (unpaginated).

Contrary to Employer’s assertion, the ALJ explained he found the x-ray evidence negative for complicated pneumoconiosis, the CT scan evidence positive for complicated pneumoconiosis, and the medical opinions inconclusive on the issue. Decision and Order at 17-18. In weighing all of the categories of evidence together, the ALJ further explained he found the positive CT scan evidence persuasive despite the negative x-ray evidence because: 1) all physicians who interpreted the x-ray evidence as positive for simple pneumoconiosis found the greatest profusion of the disease; and 2) Dr. DePonte indicated that a CT scan may reveal a Category A opacity that is not visible on x-ray due to the high profusion of small opacities demonstrated on Claimant’s x-ray films. *Id.* (referencing Claimant’s Exhibits 1 at 25, 5 at 21). He thus found, and adequately explained his finding that, Claimant established complicated pneumoconiosis based on the record as a whole. *Id.* at 18; *see Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).

Employer's arguments at 20 C.F.R. §718.304 amount to a request that the Board reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). As the ALJ considered all of the relevant evidence and substantial evidence supports his determination to credit the positive CT scan evidence over the negative x-ray evidence, we affirm his conclusion that Claimant established complicated pneumoconiosis based on the record as a whole. *See Gray*, 176 F.3d at 388-89; *Melnick*, 16 BLR at 1-33-34; Decision and Order at 18. We thus affirm the ALJ's conclusion that Claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis. 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304.

We further affirm, as unchallenged, the ALJ's determination that Claimant's complicated pneumoconiosis arose out of his coal mine employment. 20 C.F.R. §718.203(b); *see Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 18.

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

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge