



BRB No. 23-0491 BLA

CARL G. SIGLER

Claimant-Respondent

v.

WINDSOR COAL COMPANY

and

WEST VIRGINIA COAL WORKERS'
PNEUMOCONIOSIS FUND

Employer/Carrier-
Petitioners

DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS, UNITED
STATES DEPARTMENT OF LABOR

Party-in-Interest

NOT-PUBLISHED

DATE ISSUED: 05/16/2025

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits on Second Remand of Timothy J. McGrath, Administrative Law Judge, United States Department of Labor.

M. Alexander Russell and Austin P. Vowels (Vowels Law PLC), Henderson, Kentucky, for Claimant.

William S. Mattingly (Jackson Kelly PLLC), Lexington, Kentucky, for Employer and its Carrier.

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

GRESH, Chief Administrative Appeals Judge, and ROLFE, Administrative Appeals Judge:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Timothy J. McGrath's Decision and Order Awarding Benefits on Second Remand (2017-BLA-05182), rendered on a claim filed on December 21, 2015, pursuant to Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case is before the Benefits Review Board for the third time.¹

The Board most recently affirmed the ALJ's finding that the x-ray evidence, if considered in isolation, would establish complicated pneumoconiosis. *Sigler v. Windsor Coal Co.*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 5 (Jan. 27, 2023) (unpub.). However, it vacated his finding that the weight of the computed tomography (CT) scan evidence supports a finding of complicated pneumoconiosis. *Id.* at 7. Further, because the ALJ relied on the CT scan evidence when weighing the medical opinion evidence, the Board vacated his finding that the medical opinion evidence does not support a finding of complicated pneumoconiosis. *Id.* at 7-8. Consequently, the Board vacated the ALJ's finding that Claimant established complicated pneumoconiosis and thus invoked the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act. *Id.*; see 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. Accordingly, the Board vacated the award of benefits and remanded the case for further consideration.² *Sigler*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 8-9.

On remand, the ALJ again found Claimant established complicated pneumoconiosis. Thus, he found Claimant invoked the Section 411(c)(3) irrebuttable presumption of total disability due to pneumoconiosis. He further found Claimant's complicated pneumoconiosis arose out of his coal mine employment, 20 C.F.R. §718.203(b), and awarded benefits.

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

¹ We incorporate by reference the procedural history as set forth in the Board's second decision in this case. *Sigler v. Windsor Coal Co.*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 2-3 (Jan. 27, 2023) (unpub.).

² Therefore, the Board declined to address Claimant's appeal of the ALJ's Supplemental Order Granting Attorney Fees. *Sigler*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 9.

The 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).

Section 411(c)(3): Complicated Pneumoconiosis

Section 411(c)(3) of the Act 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 large 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, is a condition that would yield results equivalent to (a) or (b). 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. In determining whether Claimant has invoked the irrebuttable presumption, the ALJ must weigh all evidence relevant to the presence or absence of complicated pneumoconiosis. See *Westmoreland Coal Co. v. Cox*, 602 F.3d 276, 283 (4th Cir. 2010); *E. Assoc. Coal Corp. v. Director, OWCP [Scarbro]*, 220 F.3d 250, 255-56 (4th Cir. 2000); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc).

The ALJ found the weight of the CT scan evidence supports a finding of complicated pneumoconiosis, while the medical opinion evidence does not.⁴ 20 C.F.R. §718.304(c); Decision and Order on Second Remand at 7, 9. Weighing all the evidence together, he concluded Claimant established complicated pneumoconiosis. Decision and Order on Second Remand at 10.

Employer argues the ALJ erred in finding the CT scan evidence supports a finding of complicated pneumoconiosis. Employer's Brief at 9-19, 23-25; Employer's Reply Brief at 3-4. We are not persuaded.

The ALJ considered twelve interpretations of eight CT scans dated February 8, 2012, March 12, 2012, May 10, 2012, November 29, 2012, July 11, 2013, January 9, 2014, July 24, 2014, and June 8, 2017. Decision and Order on Second Remand at 3-7. He found the February 8, 2012, March 12, 2012, July 11, 2013, and January 9, 2014 CT scan

³ The Board will apply the law of the United States Court of Appeals for the Fourth Circuit because Claimant performed his last coal mine employment in West Virginia. See *Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 30-31.

⁴ As noted above, the Board previously affirmed the ALJ's finding that the x-ray evidence supports a finding of complicated pneumoconiosis. *Sigler*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 5.

readings, which are contained in Claimant's treatment records, are silent regarding the presence or absence of pneumoconiosis and thus neither support nor weigh against a finding of complicated pneumoconiosis.⁵ Decision and Order on Second Remand at 3-4; Employer's Exhibit 1 at 1-3, 16, 20, 22.

Dr. Crum, a dually-qualified Board-certified radiologist and B-reader, read the CT scans dated May 10, 2012, November 29, 2012, and July 24, 2014, and opined Claimant has complicated pneumoconiosis,⁶ whereas Dr. Adcock, also dually qualified, read these CT scans as negative for the disease. Claimant's Exhibit 3; Employer's Exhibits 6-8. The ALJ noted there were an equal number of conflicting readings for each of these CT scans and thus found the readings of these CT scans are in equipoise on their face. Decision and Order on Second Remand at 3. He concluded, however, that Dr. Crum's readings were more persuasive than Dr. Adcock's and therefore found them entitled to more probative weight.⁷ *Id.* at 4.

⁵ Employer asserts the ALJ erred in his consideration of the February 8, 2012, March 12, 2012, July 11, 2013, and January 9, 2014 CT scans. Employer's Brief at 16-19. In his prior decision, the ALJ found the readings of these CT scans are entitled to little weight because they are silent regarding the presence or absence of pneumoconiosis, a finding the Board affirmed. *Sigler*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 5 n.6; Decision and Order on Remand at 7-10. As Employer has not attempted to show that the Board's conclusion was clearly erroneous or set forth any other valid exception to the law of the case doctrine, we decline to disturb the Board's prior disposition and thus will not further address Employer's assertions. *See Brinkley v. Peabody Coal Co.*, 14 BLR 1-147, 1-150-51 (1990); *Bridges v. Director, OWCP*, 6 BLR 1-988 (1984); Employer's Brief at 16-19. We likewise decline to address Employer's assertions that the ALJ erred by not addressing Drs. Falk's and Bowden's statements related to the February 8, 2012 and March 12, 2012 CT scans, as any error in failing to address their comments is harmless in light of the Board's previous holding. *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Employer's Exhibit 3 at 16; Employer's Brief at 16, 25.

⁶ Dr. Crum read the May 10, 2012, November 29, 2012, and July 24, 2014 CT scans at the same time, identified a large opacity in the left upper lobe, and indicated it grew in size from eight millimeters in 2012 to twelve millimeters in 2014. Claimant's Exhibit 3 at 1.

⁷ In the course of Claimant's treatment, Dr. Bickett read the May 10, 2012 CT scan, and Dr. Horsley read the November 29, 2012 and July 24, 2014 CT scans. Employer's Exhibit 1 at 17-19, 23. Noting the record is silent as to whether Drs. Bickett and Horsley are Board-certified radiologists or B readers, the ALJ gave their interpretations less weight than those of Drs. Crum and Adcock, who have superior qualifications. Decision and Order

Dr. Crum read the June 8, 2017 CT scan and opined it could be positive for complicated pneumoconiosis, but that granulomatous disease could also be a consideration. Claimant's Exhibit 5. Drs. Perkins and Selby read this CT scan as negative for the disease. Employer's Exhibit 13 at 4, 31-33 (unpaginated). The ALJ noted Dr. Perkins is a Board-certified radiologist whereas Dr. Selby is Board-certified in internal medicine and pulmonology but not radiology. Decision and Order on Second Remand at 5. Therefore, because Dr. Crum is dually qualified, the ALJ gave his interpretations greater weight than those of Drs. Perkins and Selby, but further found Dr. Crum's opinion is equivocal as to the presence of complicated pneumoconiosis. *Id.* at 7. He thus found the readings of the June 8, 2017 CT scan are in equipoise. *Id.*

Weighing the CT scan evidence together, the ALJ found the weight of the CT scan evidence supports a finding of complicated pneumoconiosis as three are positive for the disease and the remaining are in equipoise. *Id.*

Employer initially contends the ALJ erred in finding Drs. Crum and Adcock similarly qualified in his 2020 Decision and Order on Remand and carried that error forward into his present Decision and Order on Second Remand. Employer's Brief at 21-23. It thus contends the ALJ should have given Dr. Adcock's readings greater weight than Dr. Crum's. *Id.* We disagree.

In his 2020 Decision and Order on Remand, the ALJ noted Drs. Crum and Adcock are both dually qualified as B readers and Board-certified radiologists.⁸ Decision and Order on Remand (2020 Decision and Order) at 5. He further noted both physicians have extensive experience in clinical medicine and have served on the teaching faculty at medical schools. *Id.* As the trier of fact, the ALJ has discretion to compare the physicians' qualifications, including board certifications, professorships, institutional affiliation, and publications. See *Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 951 (4th Cir. 1997); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 n.2 (4th Cir. 1997); *Harris v. Old Ben Coal Co.*, 23 BLR 1-98, 1-114 (2006) (en banc), *aff'd on recon.*, 24 BLR 1-13 (2007) (en banc); see also *Gross v. Dominion Coal Corp.*, 23 BLR 1-8, 1-18-19 (2003)

at 3 n.3. We affirm this finding as unchallenged on appeal. See *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

⁸ Employer also argues Drs. Meyer and Alexander should have been found more qualified than Dr. Crum. Employer's Brief at 21-23. Drs. Meyer and Alexander read Claimant's chest x-rays but did not read any CT scans and, as noted above, the Board has already affirmed the ALJ's finding that the x-ray evidence supports a finding of complicated pneumoconiosis. *Sigler*, BRB Nos. 21-0250 BLA and 21-0542 BLA, slip op. at 5. Employer's argument is thus moot.

(qualifications alone do not provide a basis for giving greater weight to a particular physician's opinion; that opinion must also be adequately reasoned and documented); *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85 (1993) (ALJ is not required to defer to the physicians with superior qualifications). Employer's assertion that Dr. Adcock should be found more qualified because he has been in practice for longer and has published a greater number of articles in medical journals is 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). The ALJ acted within his discretion in finding Drs. Crum and Adcock similarly qualified based on their experience and dual qualifications as B readers and Board-certified radiologists.

Employer next contends the ALJ erred in crediting Dr. Crum's readings over those of Drs. Adcock and Perkins regarding the presence of granulomatous disease.⁹ Employer's Brief at 11-16, 23-25; Employer's Reply Brief at 3-4. Employer's arguments are not persuasive.

Dr. Adcock read the May 12, 2012, November 29, 2012, and July 24, 2014 CT scans as showing between three and five "widely scattered, well-defined subcentimeter nodules." Employer's Exhibits 6-8. He opined that some of the nodules seen on the November 29, 2012 and July 24, 2014 CT scans were "at or near calcific density," and further indicated the July 24, 2014 CT scan shows a nodule in the left upper lobe that had progressed to nine millimeters in diameter. Employer's Exhibits 7-8. On all three CT scans, he diagnosed "[o]ld granulomatous disease" and opined the CT scans are negative for simple or complicated pneumoconiosis. Employer's Exhibits 6-8. He further indicated the July 24, 2014 CT scan could be positive for a neoplasm. Employer's Exhibit 8.

Dr. Crum read the May 12, 2012, November 29, 2012, and July 24, 2014 CT scans as showing twenty to thirty small nodules distributed across the lungs and opined their presence is consistent with pneumoconiosis. Claimant's Exhibit 3 at 1. He opined the May 12, 2012 and November 29, 2012 scans show an eight-millimeter nodule in the left upper lobe that progressed in size to twelve millimeters on the July 24, 2014 CT scan. *Id.* Further, he noted this same nodule had grown to sixteen millimeters on the January 27, 2016 x-ray, opined it was consistent with complicated pneumoconiosis, and explained it was unlikely to demonstrate a neoplasm or similar abnormality because it had been present with

⁹ Employer asserts the ALJ erred in discrediting Dr. Selby's reading of the June 8, 2017 CT scan but raises no specific argument related to the ALJ's findings regarding his reading. Employer's Brief at 28. We thus affirm the ALJ's finding. *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); Decision and Order on Second Remand at 7.

relatively little change in size for at least three years. *Id.* He also indicated none of the nodules show significant calcification or are completely calcified, and that the spleen showed no evidence of granulomatous changes or enlargement, all of which he asserted weighs against a prior granulomatous infection. *Id.* at 2. Thus, Dr. Crum opined the CT scans support a diagnosis of complicated pneumoconiosis and further support the conclusion that the January 27, 2016 x-ray is positive for complicated pneumoconiosis. *Id.*

On the June 8, 2017 CT scan, Dr. Crum observed bilateral sub-centimeter pulmonary nodules distributed throughout the majority of the lung fields, some of which are partially calcified. Claimant's Exhibit 5. Further, he observed a seventeen-millimeter opacity in the left upper lobe and noted that, unlike in the previous CT scans, there were now calcifications within the large opacity as well as a central round calcification. *Id.* He concluded that, while complicated pneumoconiosis has been known to exhibit calcifications, granulomatous disease would also "have to be a consideration." *Id.* In contrast, Dr. Perkins read this CT scan as negative for pneumoconiosis and stated it showed "[o]ld granulomatous disease with scattered calcified granuloma" as well as a new six millimeter "noncalcified nodule in the left lower lobe" not seen in previous CT scans. Employer's Exhibit 13 at 32 (unpaginated).

Initially, contrary to Employer's assertions, we see no error in the ALJ's finding that Dr. Crum's reading of the June 8, 2017 CT scan as possibly showing granulomatous disease does not undermine his reading of the July 24, 2014 CT scan as positive for complicated pneumoconiosis. Decision and Order on Second Remand at 7; Employer's Brief at 12-13; Employer's Reply Brief at 3-4. The ALJ has authority to make credibility determinations and resolve inconsistencies in the evidence; the Board may not reweigh the evidence even if other inferences can be drawn from it. *Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 756 (4th Cir. 1999); *Underwood*, 105 F.3d at 949. As the ALJ found, Dr. Crum expressly opined the calcifications seen on the seventeen-millimeter pulmonary nodule were not seen on the prior CT scans. Decision and Order at 5; Claimant's Exhibit 5. The ALJ further correctly observed Dr. Crum did not change his diagnosis of complicated pneumoconiosis but rather acknowledged that granulomatous disease could also be a consideration. Claimant's Exhibit 5. Dr. Crum's reading of the June 8, 2017 CT scan also does not indicate any of the smaller nodules identified are consistent with granulomatous disease. *Id.* Thus, we affirm the ALJ's finding that Dr. Crum's reading of the June 8, 2017 CT scan does not undermine his reading of the July 24, 2014 CT scan as consistent with complicated pneumoconiosis. *See Mays*, 176 F.3d at 756 (Board must uphold decisions that rest within the realm of rationality).

We also reject Employer's argument that the ALJ applied a "double standard" in discrediting Dr. Adcock's readings of the November 29, 2012, May 10, 2012, and July 24, 2014 CT scans because he did not explain his diagnosis of granulomatous disease, while not discrediting Dr. Crum's readings for the same reason. Employer's Brief at 14-16.

Contrary to Employer's assertion, the ALJ correctly observed that Dr. Adcock's readings of these CT scans provide no rationale for his conclusion that Claimant suffers from old granulomatous disease. Employer's Exhibits 6-8. While he states, beginning with the May 10, 2012 CT scan, that some of the identified nodules are "at or near calcific density," he did not explain why this supports a diagnosis of old granulomatous disease. Employer's Exhibits 6-8. In contrast, the ALJ noted that Dr. Crum "tracked the calcification of the various nodules" over time and observed there is "[n]o evidence of a completely calcified nodule . . . or evidence of significant calcifications within [those] nodules to suggest old granulomatous disease." Decision and Order at 6 (quoting Claimant's Exhibit 3 at 2). Dr. Crum further stated the CT scans revealed no evidence of granulomatous changes in the spleen or evidence of splenic enlargement, "both of which argue against any prior granulomatous infection." Claimant's Exhibit 5. Thus, the ALJ acted within his discretion in finding Dr. Crum's CT scan readings better explained and entitled to greater weight than those of Dr. Adcock.¹⁰ See *Harman Mining Co. v. Director, OWCP* [Looney], 678 F.3d 305, 310 (4th Cir. 2012); *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Akers*, 131 F.3d at 441-42; Decision and Order on Second Remand at 7.

We likewise reject Employer's contention that the ALJ erred in discrediting Dr. Perkins' reading of the June 8, 2017 CT scan. Employer's Brief at 14-15. Dr. Perkins diagnosed old granulomatous disease with scattered calcified granulomata and noted the presence of a "newly detected" six-millimeter nodule in Claimant's lower left lobe. Employer's Exhibit 13 at 32 (unpaginated). The ALJ permissibly discredited his opinion, however, because he did not explain why his findings led to a diagnosis of granulomatous disease. See *Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441-42; Decision and Order on Second Remand at 6. Further, the ALJ found Dr. Perkins' CT scan reading is undermined by Dr. Castle's opinion that the presence of a newly detected lung nodule "would contraindicate the presence of granulomatous disease." Decision and Order at 6 (citing Employer's Exhibit 15 at 57). As Employer does not challenge this finding on appeal, we affirm it. See *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

Employer raises no further argument regarding the ALJ's consideration of the CT scan evidence. Thus, we affirm the ALJ's finding that the CT scan evidence supports a finding of complicated pneumoconiosis. 20 C.F.R. §718.304(c).

¹⁰ Contrary to Employer's argument, the ALJ did not place the burden of proof on Employer to present an alternative diagnosis, but rather permissibly made a credibility determination in assessing Drs. Adcock's and Crum's conflicting readings of the May 10, 2012, November 29, 2012, and July 24, 2014 CT scans. See *Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 949 (4th Cir. 1997); Decision and Order on Second Remand at 7; Employer's Brief at 23-24; Employer's Exhibits 6-8; Claimant's Exhibit 3.

The ALJ next considered the medical opinions of Drs. Chavda, Selby, and Castle. Decision and Order on Second Remand at 7-9. Dr. Chavda diagnosed complicated pneumoconiosis based on the x-ray evidence. Director's Exhibit 11 at 9-10; Employer's Exhibit 10 at 3, 17. Dr. Selby opined the nodules seen on the x-rays and CT scans are not clinical pneumoconiosis but, rather, could be due to cancer or could be granulomas caused by histoplasmosis. Employer's Exhibit 14 at 15. Dr. Castle likewise opined Claimant does not have clinical pneumoconiosis but instead likely has another disease process, such as sarcoidosis, a possible recurrence and spread of his testicular cancer, or granulomatous disease due to sarcoid or histoplasmosis. Employer's Exhibit 15 at 17.

The ALJ found that, while Drs. Selby's and Castle's opinions are "lacking in some respects," they are entitled to more weight because they considered a greater range of evidence than Dr. Chavda did. Decision and Order on Second Remand at 9. Thus, he found the medical opinion evidence does not support a finding of complicated pneumoconiosis. *Id.* Weighing all the evidence together, however, the ALJ found Drs. Selby's and Castle's opinions do not outweigh the x-ray and CT scan evidence. *Id.* Thus, he found Claimant established complicated pneumoconiosis. *Id.* at 10.

Employer does not contend the ALJ erred in weighing the medical opinion evidence. Rather, it asserts the ALJ erred in weighing Drs. Selby's and Castle's opinions against the x-ray and CT scan evidence. Employer's Brief at 20-21. We disagree.

As the ALJ observed, Drs. Selby and Castle "rely heavily" on Claimant's treatment record CT scan evidence showing a decrease in size in some lung nodules between the February 8, 2012 and March 12, 2012 CT scans. Decision and Order on Second Remand at 9-10; Employer's Exhibits 14 at 21-23; 15 at 21. The ALJ permissibly discredited their opinions because their conclusions do not undermine a finding of complicated pneumoconiosis based on the later imaging. *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order on Second Remand at 9-10. He further permissibly discredited their opinions because their "speculative alternative diagnos[es]" were not based on evidence that Claimant actually suffers from the diseases suggested.¹¹ *See Cox*, 602 F.3d at 287.

¹¹ The ALJ found, for example, that Drs. Selby and Castle speculated that Claimant suffered from some sort of infectious process in February 2012, but this conclusion is undermined by Dr. Bauer's February 15, 2015 bronchoscopy which did not document any sort of acute disease process, whereas Dr. Selby explained that a bronchoscopy would test for acute disease processes such as fungus, bacteria, and cancer. Employer's Exhibits 1 at 34; 14 at 20, 22-23; 15 at 17.

Employer's arguments that Drs. Selby's and Castle's opinions should outweigh the x-ray and CT scan evidence are a request to reweigh the evidence, which we are not empowered to do. *See Anderson*, 12 BLR at 1-113. Thus, we affirm the ALJ's finding the evidence weighed together establishes the existence of complicated pneumoconiosis, and thus Claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis. 30 U.S.C. §921(c)(3); *see* 20 C.F.R. §718.304; *Melnick*, 16 BLR at 1-33; Decision and Order on Second Remand at 9-10. We further affirm, as unchallenged, the ALJ's finding that Claimant's complicated pneumoconiosis arose out of his coal mine employment. *Skrack*, 6 BLR at 1-711; 20 C.F.R. §718.203(b); Decision and Order on Second Remand at 10.

Accordingly, we affirm the ALJ's Decision and Order Awarding Benefits on Second Remand.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

I concur in the result only.

JUDITH S. BOGGS
Administrative Appeals Judge