U.S. Department of Labor

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

BRB No. 24-0117 BLA

LINDA CAROL CHRISTIAN Claimant-Respondent v. STAR SERVICES CORPORATION and BIRMINGHAM FIRE INSURANCE/AIG Employer/Carrier-Petitioners DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	**NOT-PUBLISHED** DATE ISSUED: 05/29/2025 DECISION and ORDER

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

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

Daniel G. Murdock (Fulton, Devlin & Powers, LLC), Lexington, Kentucky, for Employer and its Carrier.

David Casserly (Jonathan Snare, Deputy Solicitor of Labor; Jennifer Feldman Jones, Acting Associate Solicitor; William M. Bush, Acting Counsel for Administrative Appeals), Washington, D.C., for the Acting Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Jason A. Golden's Decision and Order Awarding Benefits (2021-BLA-05564) rendered on a survivor's claim filed on September 23, 2019, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ found Star Services Corporation (Star Services) is the responsible operator. He credited the Miner with thirty years of underground coal mine employment, based on the parties' stipulation, and found Claimant[1] established a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus, he found Claimant invoked the presumption of death due to pneumoconiosis at Section 411(c)(4) of the Act,[2] 30 U.S.C. §921(c)(4). He further found Employer did not rebut the presumption and awarded benefits.

On appeal, Employer argues the ALJ erred in finding Star Services is the responsible operator. On the merits of entitlement, it challenges the ALJ's finding that Claimant established the Miner was totally disabled at the time of his death and therefore invoked the Section 411(c)(4) presumption. Employer also argues the ALJ erred in finding it failed to rebut the presumption.[3] Claimant responds in support of the award of benefits. The Acting Director, Office of Workers' Compensation Programs (the Director), responds, urging the Benefits Review Board to affirm the ALJ's determination that Star Services is the responsible operator.

[1] Claimant is the widow of the Miner, James Christian, who died on June 18, 2019. Director's Exhibits 2, 12, 13.

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

[3] We affirm, as unchallenged on appeal, the ALJ's finding that the Miner had thirty years of underground coal mine employment. *See Skrack v. Island Creek Coal Co.,* 6 BLR 1-710, 1-711 (1983); Decision and Order at 5.

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.[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, 361-62 (1965).

Responsible Operator

The responsible operator is the potentially liable operator that most recently employed the miner for at least one year.[5] 20 C.F.R. §§725.494(c), 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 shows either it is financially incapable of assuming liability for benefits or another potentially liable operator that is financially capable of assuming liability more recently employed the miner for at least one year. 20 C.F.R. §725.495(c).

The ALJ considered Claimant's deposition and hearing testimony, as well as the Miner's Employment History Form CM913, Social Security Earnings Records, and paystubs. Decision and Order at 4-5; Director's Exhibits 3, 7, 8, 22, 35; Hearing Transcript. Claimant testified that the Miner worked for Star Services from February 17, 2001, until December 8, 2001. Director's Exhibit 35 at 27, 36-38; Hearing Transcript at 16. The Miner's Employment History form indicates he last worked for Star Services from February 2001 to December 2001. Director's Exhibit 3 at 1. But his Social Security Earnings Record does not report any employment with Star Services. Director's Exhibits 7, 8. The Miner's paystubs show income from Star Services for pay periods during the

[4] 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.

[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).

periods of February 17, 2001, to December 8, 2001, and July 9, 2000, to August 26, 2000.[6] Director's Exhibit 22 at 2-43.

Based on Claimant's testimony and the Miner's paystubs, the ALJ concluded the Miner worked for Star Services for 203 working days from February 17, 2001, to December 8, 2001. Decision and Order at 5; Director's Exhibits 22, 35; Hearing Transcript at 16-17. He further found Star Services failed to prove another financially capable operator more recently employed the Miner for at least 125 days. Decision and Order at 5. Thus, he found Star Services is the properly designated responsible operator. *Id.*; *see* 20 C.F.R. §725.495(c)(2).

Employer concedes it employed the Miner for at least one year; thus, we affirm that finding. *See Skrack v. Island Creek Coal Co*., 6 BLR 1-710, 1-711 (1983); Decision and Order at 5; Employer's Brief at 14. However, Employer argues liability should transfer to the Black Lung Disability Trust Fund because Claimant's testimony establishes either Black Star Mining Coal Company or Upper Hill Mining Company (collectively, Black Star) most recently employed the Miner for a year or more. Employer's Brief at 13-16. While Employer acknowledges the record contains paystubs from Star Services, it asserts the Miner was actually employed by Black Star and that Star Services "simply paid [the Miner] through Star Services' payroll out of convenience." *Id.* at 14-15 (referencing Director's Exhibits 22; 35 at 23-25, 41). Employer asserts the Miner's "employment with Star Services was in name only while he was actually employed by [Black Star] as potentially a methodology for the owners to minimize expenses associated with obtaining insurance coverage."[7] *Id.* at 16. The Director responds, arguing the relevant regulations expressly foreclose Employer's argument. Director's Brief at 1-2 (quoting 20 C.F.R. §§725.493(a)(1), 725.494(a)(2)). We agree with the Director's position.

The regulations instruct that, "[i]n determining the identity of a responsible operator . . . , the terms 'employ' and 'employment' shall be construed as broadly as possible, and shall include any relationship under which an operator retains the right to direct, control, or supervise the work performed by a miner, or any other relationship under which an operator derives a benefit from the work performed by a miner." 20 C.F.R.

[6] Although the name of the payee is redacted on some of the paystubs, they state the same address as the paystubs bearing the name of Star Services as the payee, and each paystub documents the same amount of earnings per pay period. Director's Exhibit 22 at 34-38, 43.

[7] Employer further surmises Black Star may also have "just ran out of checks in the office." Employer's Brief at 16.

§725.493(a)(1). "The payment of wages or salary shall be prima facie evidence of the right to direct, control, or supervise an individual's work," and "the operator who paid a miner's wages or salary who meets the criteria for a potentially liable operator . . . shall be primarily liable for the payment of any benefits" owed as a result of that employment. 20 C.F.R. §725.494(a)(2). Further, "[i]t is the specific intention" of the relevant regulations "to disregard any financial arrangement or business entity devised by the actual owners or operators of a coal mine . . . to avoid the payment of benefits to miners who, based upon the economic reality of their relationship to this enterprise, are, in fact, employees of the enterprise." 20 C.F.R. §725.493(a)(1).

Employer does not contend it does not meet the criteria of a potentially liable operator. 20 C.F.R. §725.494(a)-(e); *see Skrack*, 6 BLR 1-711. It concedes it paid the Miner's wages, thus establishing prima facie that it employed the Miner. *See* 20 C.F.R. §§725.493(a)(1), 725.494(a)(2); Employer's Brief at 14-15. Claimant's testimony, the sole evidence to which Employer points to support its assertion that the Miner worked for Black Star and not Star Services, instead shows, as Employer itself admits, that Star Services and Black Star "engaged in a financial arrangement" to reduce the cost of its insurance coverage.[8] *See* 20 C.F.R. §725.493(a)(1); Employer's Brief at 14-16; Director's Exhibit 35 at 23-25, 41. We thus reject Employer's arguments and affirm the ALJ's finding that Star Services is the properly designated responsible operator. Decision and Order at 5.

Invocation of the Section 411(c)(4) Presumption: Total Disability

To invoke the Section 411(c)(4) presumption of death due to pneumoconiosis, Claimant must establish the Miner "had at the time of his death, a totally disabling respiratory or pulmonary impairment." 20 C.F.R. §718.305(b)(1)(iii). A miner is

[8] Claimant testified that Star Services and Black Star were all owned by Milton Compton and Herstel Ratliff. Director's Exhibit 35 at 25, 27. She further explained the owners "had several different names of companies that – that was their way of not paying a large amount of workers' comp. I got paid with Star Services because I was not underground. James got paid with Black Star Mining or Black Star Coal, whatever they were at the time, because he was underground." *Id.* at 24, 26. Thus, as the Director asserts, Claimant's testimony establishes Star Services and Black Star had the same owners, same management, and interrelated operations, as well as centralized control of labor management matters, thereby establishing that Star Services and Black Star constituted a single employer and that all employees of each company are therefore employees of both companies. *See Armbruster v. Quinn*, 711 F.2d 1332, 1337 (6th Cir. 1983); Director's Response Brief at 2; Director's Exhibit 35 at 23-25, 41. Employer thus cannot rely on Claimant's testimony to relieve itself of liability.

considered totally disabled if his pulmonary or respiratory impairment, standing alone, prevented him from performing his usual coal mine work and comparable gainful work. 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on pulmonary function studies, arterial blood gas studies, evidence of pneumoconiosis and cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The ALJ must weigh all relevant supporting evidence against all relevant contrary evidence. *See Rafferty v. Jones & Laughlin Steel Corp*., 9 BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp*., 9 BLR 1-195, 1-198 (1986), *aff'd on recon*., 9 BLR 1-236 (1987) (en banc). The ALJ found Claimant established total disability based on the Miner's treatment records, as supported by Dr. Jarboe's opinion, and the evidence as a whole.[9] 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 10.

Before weighing the medical opinions and the Miner's treatment records, the ALJ addressed the exertional requirements of the Miner's usual coal mine work as a superintendent and section foreman. Decision and Order at 6-7. Relying on Claimant's testimony and Form 913, Description of Coal Mine Work, he found the Miner's usual coal mine work required heavy manual labor. *Id.*; Hearing Transcript at 11-13; Director's Exhibit 4 at 2. As this finding is unchallenged, we affirm it. *See Skrack*, 6 BLR at 1-711.

The ALJ next considered the Miner's treatment records from April through July 2019, and Dr. Jarboe's medical opinion. Decision and Order at 7-10. He determined that, "for at least two months before and at the time of his death," the Miner was "totally disabled by a respiratory impairment" and "incapable of performing the heavy labor required by his usual coal mine work" based on his treating physicians' documentation of "chronic respiratory failure" and "severe hypoxemia" requiring "frequent hospitalization in the months before his death." *Id.* at 7-8, 10; Director's Exhibit 15 at 2, 6-8, 12. Further, while he noted Dr. Jarboe did not render an opinion as to whether the Miner was totally disabled at the time of his death, he further observed the physician agreed the Miner had severe hypoxemia and respiratory failure, and that his opinion thus supports the conclusion that the Miner was totally disabled at the time of his death. Decision and Order at 9; Employer's Exhibit 1 at 7-8. The ALJ also noted the Miner's death certificate reports the Miner's cause

[9] The ALJ correctly observed the record contains no pulmonary function studies, and there is no evidence of complicated pneumoconiosis or cor pulmonale with right-sided congestive heart failure. Decision and Order 6; *see* 20 C.F.R. §§718.204(b)(2)(i), (iii), 718.304. While the Miner's treatment records contain an arterial blood gas study dated April 14, 2019, the ALJ declined to consider it because the Miner performed it during a period of acute illness resulting in his admission to intensive care. Decision and Order at 6 n.19; Employer's Exhibit 1 at 2; *see* 20 C.F.R. §718.204(b)(2)(ii); 20 C.F.R. Part 718, Appendix C.

of death was acute respiratory failure due to sepsis and pneumonia. Decision and Order at 8; Director's Exhibit 13. He therefore found the medical evidence supports a finding of total disability. Decision and Order at 10.

We initially reject Employer's argument that the ALJ erred in finding Claimant established total disability because he "bas[ed] his finding of disability on an acute medical episode instead of a chronic respiratory condition." Employer's Brief at 12-13. Contrary to Employer's assertion, nothing in the Act or regulations requires a showing that the Miner's total disability was chronic in order to invoke the Section 411(c)(4) presumption. *Consol. Coal Co. v. Director, OWCP* [*Staten*], 129 F.4th 409, 414 (7th Cir. 2025) ("Neither the [Act] nor the regulations say the disabling impairment must be 'chronic' or, for that matter, draw any distinction between acute and chronic medical conditions."); *Tanner v. Freeman United Coal Co*., 10 BLR 1-85 (1987) ("Under the plain language of Section 411(c)(4) of the Act and the implementing regulation . . . [a miner] is not required to establish that his totally disabling respiratory or pulmonary impairment is chronic."). The relevant inquiry for invocation of the Section 411(c)(4) presumption is whether the deceased miner had a totally disabling respiratory impairment "at the time of his death," not whether the disability preceded the miner's death by some undefined time period to be considered "chronic." 20 C.F.R. §718.305(b)(1)(iii); *see generally Price v. Califano*, 468 F. Supp. 428 (N.D. W.Va. 1979) (inquiry under Section 411(c)(4) is whether the miner was totally disabled "at the time of death," not some point in time "prior to death"); *Lloyd v. Mathews*, 413 F. Supp. 1161 (E.D. Pa. 1976) (Because pneumoconiosis is a progressive disease, evidence that the miner was not disabled one month before his death "is not controlling if, in the space of those final weeks [of life], his physical condition deteriorated to the extent that he became 'totally disabled.'").

Employer further asserts the ALJ substituted his opinion for that of the medical experts by erroneously inferring the Miner's treatment records establish total disability. Employer's Brief at 12. We are not persuaded.

A physician need not phrase his or her opinion in terms of "total disability" in order to support a finding of total disability at 20 C.F.R. §718.204(b)(2)(iv). *See Poole v. Freeman United Coal Mining Co.*, 897 F.2d 888, 894 (7th Cir. 1990) (citing *Black Diamond Coal Co. v. Benefits Review Board* [*Raines*], 758 F.2d 1532, 1534 (11th Cir. 1985)). Treatment records may support a finding of total disability if they provide sufficient information from which the ALJ can reasonably infer a miner was unable to do his last coal mine job. *See Poole*, 897 F.2d at 894. Even a mild pulmonary impairment may be totally disabling, depending on the exertional requirements of a miner's usual coal mine employment. *Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 578 (6th Cir. 2000).

In this case, the Miner's treatment and hospitalization records document he suffered from respiratory failure and hypoxia requiring multiple hospitalizations in the months prior to his death. Director's Exhibit 15 at 2-18. The ALJ determined the Miner's treatment records contained sufficient information about his pulmonary and respiratory conditions to find he had respiratory distress, acute respiratory failure, and severe hypoxia among other ailments. Decision and Order at 8. He further found the Miner's conditions would have prevented him from performing the heavy labor required by his usual coal mine work. *Id.* at 10.

Contrary to Employer's contention, we see no error in the ALJ's finding that the Miner's treatment records, as supported by Dr. Jarboe's opinion, support a finding of total disability. Decision and Order at 10; Employer's Brief at 12. The ALJ permissibly relied upon evidence documenting severe and worsening respiratory failure and severe hypoxia[10] and found it consistent with Dr. Jarboe's opinion which documented multiple hospitalizations, severe hypoxemia, and respiratory failure. The ALJ also relied on evidence that the Miner was in respiratory failure at the time of his death as well as the Miner's autopsy report and death certificate, both of which identify respiratory failure as a cause of death. *See Cumberland River Coal Co. v. Banks*, 690 F.3d 477, 482-83 (6th Cir. 2012); *Jericol Mining, Inc. v. Napier,* 301 F.3d 703, 713-14 (6th Cir. 2002); Decision and Order at 8-10; Director's Exhibits 13; 14; 15 at 2-18; Employer's Exhibit 1 at 7-8. The Board is not empowered to reweigh the evidence or substitute its judgment. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). Because the ALJ drew reasonable inferences from the Miner's treatment records, we affirm his finding the Miner was totally disabled at the time of his death. 20 C.F.R. §718.204(b)(2)(iv); *see Banks*, 690 F.3d at 482-83; *Poole*, 897 F.2d at 894; Decision and Order at 10.

As Employer raises no further challenges, we affirm the ALJ's finding that the evidence as a whole establishes total disability and, therefore, Claimant invoked the Section 411(c)(4) presumption. 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §718.204(b)(2).

Rebuttal of the Section 411(c)(4) Presumption

Because Claimant invoked the Section 411(c)(4) presumption of death due to pneumoconiosis, the burden shifted to Employer to establish the Miner had neither legal nor clinical pneumoconiosis,[11] or "no part of [his] death was caused by pneumoconiosis as

[10] The ALJ further observed the Miner's treatment records ruled out a cardiac cause of the Miner's hypoxia. Decision and Order at 8 (quoting Director's Exhibit 15 at 2).

[11] "Legal pneumoconiosis" includes "any chronic lung disease or impairment and its sequelae arising out of coal mine employment." 20 C.F.R. §718.201(a)(2). The

defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(2)(i), (ii). The ALJ found Employer failed to establish rebuttal by either method. Decision and Order at 10-18.

Legal Pneumoconiosis

To disprove legal pneumoconiosis, Employer must establish the Miner did not have 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(a)(2), (b), 718.305(d)(1)(i)(A); *see Minich v. Keystone Coal Mining Corp*., 25 BLR 1-149, 1-155 n.8 (2015). The United States Court of Appeals for the Sixth Circuit, within whose jurisdiction this case arises, requires Employer to establish the Miner's "coal mine employment did not contribute, in part, to his alleged pneumoconiosis." *Island Creek Coal Co. v. Young*, 947 F.3d 399, 405 (6th Cir. 2020). "An employer may prevail under the not 'in part' standard by showing that coal dust exposure had no more than a *de minimis* impact on the miner's lung impairment." *Id.* at 407 (citing *Arch on the Green, Inc. v. Groves*, 761 F.3d 594, 600 (6th Cir. 2014)).

Employer relies on Dr. Jarboe's opinion that the Miner did not have legal pneumoconiosis. Employer's Exhibit 1 at 7-8. Dr. Jarboe opined the Miner's respiratory failure and hypoxemia were unrelated to his history of coal mine dust exposure, and that coal mine dust exposure did not cause, contribute to, or hasten any condition for which the Miner was treated during his final hospitalization. *Id.* at 6-7. The ALJ found Dr. Jarboe's opinion not sufficiently reasoned or documented and thus gave it no weight. Decision and Order at 17. Thus, he found Employer failed to rebut the presumption of legal pneumoconiosis. *Id.*

Employer contends the ALJ erred in finding Claimant satisfied her burden to establish legal pneumoconiosis because the Miner's autopsy report, treatment records, and death certificate do not diagnose legal pneumoconiosis and because Dr. Jarboe opined the Miner did not have legal pneumoconiosis. Employer's Brief at 8-9.

Initially, contrary to Employer's argument, because Claimant invoked the Section 411(c)(4) presumption, the burden is on Employer to disprove the existence of legal

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definition includes "any chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). "Clinical pneumoconiosis" consists of "those diseases recognized by the medical community as pneumoconioses, *i.e*., the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1).

pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i); *see Minich*, 25 BLR at 1-159; *see also Griffith v. Terry Eagle Coal Co*., 25 BLR 1-223, 1-227 (2017). The rebuttal inquiry is "whether the employer has come forward with affirmative proof that [the miner did] not have legal pneumoconiosis, because his impairment [was] not in fact significantly related to his years of coal mine employment." *See Young*, 947 F.3d at 405; *see also W. Va. CWP Fund v. Director, OWCP* [*Smith*], 880 F.3d 691, 699 (4th Cir. 2018).

The Miner's death certificate, autopsy report,[12] and treatment records are silent as to the existence of legal pneumoconiosis. *See* Director's Exhibits 13-15. Thus, the only evidence in the record supportive of Employer's burden to affirmatively disprove legal pneumoconiosis is Dr. Jarboe's opinion. Employer's Exhibit 1 at 6-7. But the ALJ permissibly discredited Dr. Jarboe's opinion because his view that the Miner's hypoxia was caused by a pulmonary embolism is inconsistent with the Miner's treatment notes, which document that the Miner's physicians ruled out a cardiac cause of hypoxemia and remained unsure of the underlying cause. *See Director, OWCP v. Rowe*, 710 F.2d 251, 255 (6th Cir. 1983); Decision and Order at 16-17. Further, as the ALJ noted, Dr. Jarboe acknowledged the autopsy prosector diagnosed emphysema, Employer's Exhibit 1 at 3-7. However, while Dr. Jarboe opined emphysema did not cause airflow obstruction, he did not adequately explain why the Miner's history of coal mine dust exposure could not have contributed to this impairment. *See Martin v. Ligon Preparation Co.*, 400 F.3d 302, 305-06 (6th Cir. 2005); *Peabody Coal Co. v. Hill*, 123 F.3d 412, 415 (6th Cir. 1997) (same); Decision and Order at 17.

Because the ALJ provided valid reasons for discrediting Dr. Jarboe's opinion, the only medical evidence supportive of Employer's burden at rebuttal, we affirm his finding that Employer failed to disprove legal pneumoconiosis. *See Minich*, 25 BLR at 1-155 n.8. Therefore, we affirm his finding that Employer failed to rebut the Section 411(c)(4) presumption by establishing the Miner did not have legal pneumoconiosis. *See* 20 C.F.R. §718.305(d)(2)(i)(A); Decision and Order at 17. Employer's failure to disprove legal pneumoconiosis precludes a rebuttal finding that the Miner did not have pneumoconiosis.[13] 20 C.F.R. §718.305(d)(2)(i).

[12] While the Miner's autopsy report does not mention pneumoconiosis, the autopsy prosector did diagnose anthracosis and emphysema. Director's Exhibit 14 at 5.

[13] Therefore, we need not address Employer's contentions of error regarding the ALJ's findings relevant to clinical pneumoconiosis. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (appellant must explain how the "error to which [it] points could have made

Death Causation

The ALJ next considered whether Employer established "no part of the [M]iner's death was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(1)(ii); Decision and Order at 17-18. The ALJ permissibly discredited Dr. Jarboe's death-causation opinion because he did not diagnose legal pneumoconiosis, contrary to the ALJ's finding that Employer failed to disprove the existence of the disease. *See Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074 (6th Cir. 2013); *Island Creek Ky. Mining v. Ramage*, 737 F.3d 1050, 1062 (6th Cir. 2013); Decision and Order at 18. We therefore affirm the ALJ's finding that Employer failed to establish no part of the Miner's death was caused by pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii).

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

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

any difference"); *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Employer's Brief at 5-8.