U.S. Department of Labor

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

BRB No. 24-0178

JULIET ZAWEDDE	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	**PUBLISHED**
	)	
SOC, LLC	)	
	)	
and	)	DATE ISSUED: 12/19/2025
	)	
CONTINENTAL INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	
		DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Evan H. Nordby, Administrative Law Judge, United States Department of Labor.

Juliet Zawedde, Kampala, Uganda.[1]

Christian J. Berchild (Thomas Quinn, LLP), San Francisco, California, for Employer and its Carrier.

Before: GRESH, Chief Administrative Appeals Judge, ROLFE, Administrative Appeals Judge, and ULMER, Acting Administrative Appeals Judge.

[1] Attorney Anthony J. Schiuma represented Claimant before the ALJ. Mr. Schiuma filed a letter with the Board on March 8, 2024, however, indicating neither he nor his law firm, Attorneys Jo Ann Hoffman & Associates, P.A., represent Claimant in this appeal.

PER CURIAM:

Claimant appeals, without representation, Administrative Law Judge (ALJ) Evan H. Nordby's Decision and Order Denying Benefits (2021-LDA-05305) rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act), as extended by the Defense Base Act, 42 U.S.C. §§1651-1655 (DBA). In an appeal a claimant files without representation, the Benefits Review Board reviews the ALJ's decision below to determine if the findings of fact and conclusions of law are rational, supported by substantial evidence, and in accordance with applicable law.[2] 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-362 (1965).

Claimant allegedly sustained psychological injuries working as an armed security guard in Iraq for Employer from January 2007 to November 2011. On December 12, 2023, the ALJ issued a statement from the bench finding Claimant invoked the Section 20(a) presumption of compensability, 33 U.S.C. §920(a), and that Employer rebutted it. Bench Tr. at 22-24. Weighing the evidence, the ALJ stated Claimant failed to establish a work-related psychological injury. *Id.* at 5-26. In his subsequent, less-than-two-page written Decision and Order (D&O) dated January 19, 2024, the ALJ incorporated a transcript of his statement by reference, identified two corrections to it, baldly restated his conclusion, and denied benefits. D&O at 1-2.[3]

On appeal, Claimant generally challenges the denial. Employer and its Carrier (Employer) respond urging affirmance. We hold the ALJ's D&O, the operative document before us, is insufficient on its face to enable meaningful review, and we thus remand this case for further development consistent with this opinion.

The Act's statutory and regulatory framework plainly requires written decisions and orders that contain certain elements. The Administrative Procedure Act (APA), incorporated into the Act by 33 U.S.C. §919(d), for example, requires every adjudicatory decision to include a statement of "findings and conclusions, and the reasons or basis

[2] This case arises within the jurisdiction of the United States Court of Appeals for the Second Circuit because the office of the district director who filed the ALJ's decision is located in New York. 33 U.S.C. §921(c); *Glob. Linguist Sols., LLC v. Abdelmeged*, 913 F.3d 921, 922 (9th Cir. 2019); *see also McDonald v. Aecom Tech. Corp.*, 45 BRBS 45, 47 (2011).

[3] The ALJ explained, simply, "The purpose of this Decision and Order is to adopt and incorporate the final transcript of the bench decision and enter a final order memorializing the bench decision." D&O at 1.

therefor, on all the material issues of fact, law or discretion presented on the record." 5 U.S.C. §557(c)(3)(A); *see Gelinas v. Elec. Boat Corp.*, 45 BRBS 69, 71 (2011); *Ballesteros v. Willamette W. Corp.*, 20 BRBS 184, 187 (1988). The Act's implementing regulations further clarify, "The compensation order shall contain appropriate findings of facts and conclusions of law with respect thereto, and shall be concluded with one or more paragraphs containing the order[.]" 20 C.F.R. §702.348. And the Office of Administrative Law Judges' Rules of Practice and Procedure further provide, "At the conclusion of the proceeding, the [ALJ] must issue a *written decision and order*." 29 C.F.R. §18.92 (emphasis added). Conversely, nothing in the Act or its regulations contemplates that a transcript (including an otherwise substantively sufficient one) can be substituted for a written decision.[4]

Taken together, we hold this authority, and the lack of any counter-authority, requires written decisions and orders that provide the law and evidence relied upon with sufficient detail to allow for meaningful appellate review. We further hold written decisions and orders that simply adopt bench transcripts, like the one at issue in this case, are inherently insufficient in that task, regardless of the detail of the transcript. *See Atchison, Topeka & Santa Fe Ry. Co. v. Wichita Bd. of Trade*, 412 U.S. 800, 806-807 (1973); *Rasel v. Bethlehem Mines Corp.*, 1 BLR 1-918, 1-920 (1978); *Gerhardt v. Saharah Coal Co.*, 7 BRBS 512, 514-515 (1978).

Requiring a written decision instead of a bench transcript is not an empty elevation of form over substance. Courts have long recognized the need for clear written decisions and orders in agency adjudications. Speaking generally of the relationship between administrative agencies and the tribunals that review their decisions, the Supreme Court set out as a "fundamental rule of administrative law" that "the agency must set forth clearly the grounds on which it acted." *Atchison*, 412 U.S. at 807. Written decisions are the best way to set forth those grounds to the affected parties, and they permit reviewing bodies to carry out their oversight functions. *See id.* at 806-807. Indeed, courts have repeatedly recognized that fully developed written decisions deter arbitrary administrative actions and prevent reviewing bodies from exceeding their respective responsibilities and jurisdiction. *See, e.g.*, *Flav-O-Rich, Inc. v. N.L.R.B.*, 531 F.2d 358, 362 (6th Cir. 1976). Such clarity is

[4] Notably, at least one administrative agency, the Social Security Administration, specifically permits bench decisions, but only in fully-favorable cases and under strict rules concerning how the decisions are memorialized. *See, e.g.*, 20 C.F.R. §§404.953(b), 416.1453(b). The Act and its extensions do not contain any similar statutory or regulatory authority.

particularly important in cases such as this one, where a claimant without representation appeals a denial of benefits. *See Rasel*, 1 BLR at 1-920.[5]

As the ALJ himself recognized, we have recently admonished ALJs for using bench decisions in place of fully explained written decisions. *Williams v. M.T.C. E.*, BRB No. 22-0065, slip op. at 4 (Apr. 6, 2023) (unpub.). In *Williams*, the ALJ similarly incorporated his bench decision and abruptly granted a summary judgment motion. *Id.* at 3. We held that because the ALJ failed to explain his rationale in his decision and order, his bench decision was inconsistent with the APA. *Id.* at 4. We further held the ALJ erroneously incorporated his factual findings from the hearing without appropriate cites to the record and without providing any authority to justify his decision. We therefore vacated the decision and remanded the case for a proper decision and explanation. *Id.*[6]

So too here. The ALJ's written D&O summarily incorporated his "findings" and "conclusions" from his bench decision without appropriate cites to the record and without providing any further context or analysis. D&O at 1-2. He did not state which evidence he accepted and which evidence he rejected, and he did not provide any authority or case precedent to justify or support his conclusion that Claimant failed to establish a work-related psychological injury. *Id.*

[5] Significantly, bench decisions may further force parties to pay for and obtain a transcript to simply evaluate the status of their claims, which would be a significant hurdle for many unrepresented claimants who make up a sizable portion of Longshore and DBA litigants. By contrast, a comprehensive written decision gives the parties greater access to information essential to their claims and defenses in a form more easily digestible for attorneys, judges, and laypersons alike. *See* 5 U.S.C. §557(c). Written decisions further allow for meaningful public access to decisions, which may be impossible with bench transcripts that are both harder to acquire and interpret. 5 U.S.C. §552(a)(2)(A).

[6] The ALJ acknowledged the Board's admonition and, citing *Williams*, stated the Board "cautioned" ALJs "to make sure bench decisions adequately detail the rationale." Bench Decision at 5. To the extent we left the door open, we close it today and hold bench decisions cannot ever adequately substitute for written decisions under the APA, the Act, and its implementing regulations.

Accordingly, we vacate the ALJ's Decision and Order Denying Benefits and remand the case for further explanation in a fully developed, written Decision and Order consistent with this opinion.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Acting Administrative Appeals Judge