U.S. Department of Labor

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

BRB No. 24-0148

GARY A. GOODE Claimant-Respondent v. VIRGINIA INTERNATIONAL TERMINALS, INCORPORATED and SIGNAL MUTUAL INDEMNITY ASSOCIATION, LIMITED Employer/Carrier-Petitioners	)	**NOT-PUBLISHED** DATE ISSUED: 12/09/2025 DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits and Granting Section 8(f) Relief of Paul C. Johnson, Jr., Administrative Law Judge, United States Department of Labor

Gary A. Goode, Chesapeake, Virginia.

Lawrence P. Postol (Postol Law Firm, P.C.), McLean, Virginia, for Employer and its Carrier.

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

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Paul C. Johnson, Jr.'s Decision and Order Awarding Benefits and Granting Section 8(f) Relief (2020-LHC-01009) rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act). We must affirm the ALJ's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with applicable law.[1] 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Claimant injured his back, neck, wrist, and shoulder while working as a transtainer operator for Employer on March 1, 2018. Hearing Transcript (HT) at 14-16; Employer's Exhibit (EX) 50 at 21. On March 2, 2018, Claimant began treating with Dr. Arthur W. Wardell.[2] Claimant's Exhibit (CX) 22. Dr. Wardell diagnosed Claimant with neck, thoracic back, lumbar, left wrist, left shoulder, and acromioclavicular sprains, and a rib contusion. *Id.* at 3-4.

At Employer's request, Dr. David G. Goss reviewed Claimant's medical records and examined him on April 23, 2018.[3] EX 15. He diagnosed Claimant with mild sprains to his cervical, thoracic, and lumbar spine, left shoulder, and left wrist due to his March 2018 accident, and opined his symptoms should resolve within four to six weeks with conservative treatment.[4] *Id.* at 1-2, 5.

On July 2, 2018, Dr. Wardell reviewed an MRI obtained on June 25, 2018, which revealed an abnormal T2 signal within Claimant's spinal cord and central canal stenosis. CX 22 at 29; EX 18. He referred Claimant to neurosurgeon Dr. Parker W. Babington, with whom Claimant began treating on July 10, 2018.[5] CX 10; CX 22 at 31. Dr. Babington noted Claimant reported neck pain that began after the March 2018 accident and worsened

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[1] This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because Claimant sustained an injury while working for Employer in Virginia. 33 U.S.C. §921(c); *see Roberts v. Custom Ship Interiors*, 35 BRBS 65, 67 n.2 (2001), *aff'd*, 300 F.3d 510 (4th Cir. 2002), *cert. denied*, 537 U.S. 1188 (2003); 20 C.F.R. §702.201(a).

[2] Dr. Wardell is board-certified in orthopedic surgery. CX 24.

[3] Dr. Goss is a board-certified orthopedic surgeon. EX 16.

[4] Dr. Goss reviewed x-rays of Claimant's cervical, thoracic, and lumbar spine, left wrist, and left shoulder, noting scattered degenerative changes. EXs 15 at 5, 48 at 11-12.

[5] Dr. Babington is board-certified in neurologic surgery. CX 25.

with certain neck movements. CX 10 at 1. He ordered an MRI of Claimant's cervical spine,[6] which he reviewed and diagnosed Claimant with severe cervical degenerative changes including cervical stenosis with cord compression and myelomalacia, as well as cervical spondylosis with myelopathy and radiculopathy.[7] CX 10 at 4-7; CX 11. Further, he opined Claimant's condition put him at risk of permanent paralysis and recommended three-level anterior cervical discectomy and fusion surgery. CX 10 at 6-7; CX 36 at 7-8.

On August 22, 2018, Dr. Goss reviewed Dr. Babington's records and reiterated his opinion that Claimant sustained mild sprains due to his accident. EX 21. He stated the MRI results showed Claimant has "longstanding" severe cervical stenosis but no evidence of an "acute permanent structural injury" due to Claimant's work accident. *Id.* Further, he opined surgical management of Claimant's cervical stenosis "may be appropriate," but explained any surgery should not be considered related to the March 2018 accident. *Id.*

Dr. Babington disagreed with Dr. Goss's opinion that Claimant's current complaints are not work-related. CX 10 at 7. He explained Claimant's "fall had a temporal and causal relationship to his current complaint of pain and weakness," and Claimant "state[d] that he was asymptomatic prior to the fall" but began having pain and weakness in his neck, shoulder, and biceps immediately after the fall. *Id.* Dr. Babington again recommended surgery, which he performed on October 26, 2018. CXs 10 at 7, 28 at 1, 4, 36 at 7-8; EX 23.

Claimant continued treating with Dr. Wardell for his shoulder, neck, and back injuries throughout 2018 until October 25, 2021, and made consistent complaints of neck and back pain without significant improvement. CX 22. Dr. Wardell opined Claimant's pre-existing cervical stenosis became symptomatic, and Claimant sustained a cervical cord injury as a result of the March 2018 accident. CX 12, 14, 31.

Dr. Goss again evaluated Claimant on June 29, 2020, and May 10, 2021. He reiterated his opinion that Claimant's mild sprains from his work accident should have completely resolved in 2018 and required no further medical treatment, and his ongoing chronic complaints were not related to his accident. EXs 30, 38.

At his July 27, 2021 deposition, Dr. Babington acknowledged Claimant's MRI results showed degenerative changes in his cervical spine that were unrelated to his work accident. CX 36 at 5-6, 12-13, 24-27. He opined Claimant's ongoing complaints were

[6] The MRI was obtained on July 24, 2018. CX 11.

[7] Dr. Babington uses the term myelopathy, which is compression of the spinal cord, interchangeably with increased or abnormal T2 signal. *See* CX 36 at 6, 11, 20, 25-26.

likely due to the aggravation of his underlying degenerative condition based on his report that he was asymptomatic before the accident as well as the development of increased T2 signal, which Dr. Babington explained is "typically" caused by an acute injury such as whiplash or a fall. *Id.* at 12-13, 24-30. Dr. Babington acknowledged it is "theoretically" possible to have increased T2 signal without an acute trauma but explained it would be dependent on when the patient's symptoms began.[8] *Id.* at 12, 26-27. He noted Dr. Goss failed to comment on the spinal cord compression, myelopathy, increased T2 signal or otherwise address the pathology Dr. Babington identified on the July 2018 MRI. *Id.* at 6, 9-11. Dr. Babington authored letters dated September 23, 2021, and November 16, 2021, reiterating that Claimant's work accident aggravated his pre-existing conditions. CXs 31, 37.

At his August 2, 2021 deposition, Dr. Goss testified Claimant's continued symptoms were not related to the March 2018 accident but were the result of "longstanding" degenerative chronic cervical stenosis and scarring of the spinal cord. EX 48 at 12-13, 17-20, 27-28, 31, 37. He opined Claimant's work accident resulted in minor sprains which should have resolved after six to twelve weeks. *Id.* at 13-16, 20, 24. Dr. Goss further explained Claimant's pre-existing condition likely developed into a painful condition without a triggering event due to significant deconditioning and his weight causing pressure on the degenerative changes. *Id.* at 21-24, 26, 38-40.

Claimant filed a claim for benefits alleging work-related injuries to his neck, back, left wrist, and left shoulder. CX 1 at 4. Employer paid temporary total disability (TTD) benefits from March 2, 2018, to June 28, 2020. CX 2. On July 1, 2020, Employer controverted the claim based on Dr. Goss's opinion that Claimant is not disabled and that continuing medical treatment was not necessary. EX 4. The case was transferred to the Office of Administrative Law Judges, and the ALJ held a formal hearing on December 9, 2021. Employer also sought Special Fund relief pursuant to Section 8(f) of the Act, 33 U.S.C. §908(f). EX 43.

The ALJ found Claimant entitled to the Section 20(a) presumption, 33 U.S.C. §920(a), that his neck, low back, left shoulder, and left wrist injuries were related to the March 2018 work accident, and Employer failed to rebut the presumption. Decision and Order (D&O) at 26-27. Thus, he determined Claimant suffered compensable injuries as a matter of law on March 1, 2018. *Id.* at 27. In light of the assertion that Claimant's condition had resolved, the ALJ proceeded to weigh the medical evidence to determine whether

[8] Dr. Babington acknowledged Claimant did not provide any medical records predating the work accident, and he relied on Claimant's account that he did not have a prior neck, back, or shoulder issue. CX 36 at 17-19.

Claimant's current and continued complaints were due to his pre-existing degenerative condition or whether the March 2018 accident aggravated that condition. He determined Claimant's continuing symptoms are work-related based on Dr. Babington's opinion that Claimant's March 2018 accident aggravated his pre-existing cervical stenosis. *Id.* at 27-29. Further, the ALJ found Claimant to be permanently and totally disabled beginning March 2, 2018, through the present and continuing, and awarded permanent total disability (PTD) benefits as well as reasonable and necessary medical expenses related to his neck, lower back, and left shoulder injuries.[9] *Id.* at 31-33, 35. He also granted Employer's request for Special Fund relief pursuant to Section 8(f). *Id.* at 33-35.

On appeal, Employer contends the ALJ erred in finding Claimant established a work-related aggravation injury upon weighing the evidence as a whole.[10] Claimant responds, urging affirmance of the ALJ's decision.[11] Employer filed a reply brief reiterating its contentions.

In determining whether an injury is work-related, a claimant is aided by the Section 20(a) presumption, 33 U.S.C. §920(a), which is invoked after he presents some evidence or allegation that he suffered a harm and conditions existed, or an accident occurred, at his place of employment which could have caused or aggravated the harm. *See Ceres Marine Terminals, Inc. v. Dir., OWCP* [*Jackson*], 848 F.3d 115, 121 (4th Cir. 2016); *Universal Mar. Corp. v. Moore*, 126 F.3d 256, 262 (4th Cir. 1997); *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 36 (2022) (Decision on Recon. en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023). Once the Section 20(a) presumption is invoked, the burden shifts to the employer to provide substantial evidence that the claimant's injury was not caused or aggravated by his employment. *Newport News Shipbuilding & Dry Dock Co. v. Holiday*, 591 F.3d 219, 225 (4th Cir. 2009); *Moore*, 126 F.3d at 262; *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41 (2000). If the employer rebuts the Section 20(a) presumption, it no longer applies,

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[9] The ALJ found Claimant's condition reached maximum medical improvement (MMI) for his left wrist injury on March 16, 2018, and required no further treatment. D&O at 31, 33 n.7.

[10] We affirm as unchallenged on appeal the ALJ's finding that Claimant experienced compensable neck, low back, left shoulder, and left wrist injuries on March 1, 2018. *Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 26-27.

[11] Tyler S. Leard of Montagna Law, Norfolk, Virginia, filed a brief on Claimant's behalf, but on August 20, 2025, he filed a motion withdrawing as Claimant's counsel. He indicated Claimant has retained new counsel; however, as of issuance of this decision, Claimant's new counsel has not filed a Notice of Appearance.

and the issue must be resolved on the record as a whole, with the claimant bearing the burden of persuasion.[12] *Moore*, 126 F.3d at 262; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171 (1996); *see also Dir., OWCP v. Greenwich Collieries*, 512 U.S. 267 (1994).

The Benefits Review Board may not reweigh the evidence or substitute its opinion for that of the ALJ even if the evidence could support other inferences or conclusions. *See, e.g., Newport News Shipbuilding & Dry Dock Co. v. Winn*, 326 F.3d 427, 430 (4th Cir. 2003). The Board must accept the ALJ's weighing of the evidence if it is rational and supported by substantial evidence. *See Smith v. Chater*, 99 F.3d 635, 637-638 (4th Cir. 1996) (if substantial evidence supports an ALJ's findings, the reviewing body must sustain the ALJ's decision, even if it might disagree with those findings); *Mendoza v. Marine Pers. Co.*, 46 F.3d 498, 500-501 (5th Cir. 1995); *Pittman Mech. Contractors, Inc. v. Dir., OWCP* [*Simonds*], 35 F.3d 122, 127 (4th Cir. 1994); *Mijangos v. Avondale Shipyards, Inc.*, 948 F.2d 941, 944 (5th Cir. 1991). But the Board is not bound to accept an ultimate finding or inference if the decision discloses that it was reached in an invalid manner, *Howell v. Einbinder*, 350 F.2d 442 (D.C. Cir. 1965), nor must it accept the fact-finder's decision when it is unable to conscientiously conclude that the decision is supported by substantial evidence. *Goins v. Noble Drilling Corp.*, 397 F.2d 392 (5th Cir. 1968).

Under the aggravation rule, if a work-related injury contributes to, combines with, or aggravates a pre-existing condition, the entire resultant condition is compensable. *Metro. Mach. Corp. v. Dir. [Stephenson]*, 846 F.3d 680, 684 (4th Cir. 2017); *Newport News Shipbuilding & Dry Dock Co. v. Fishel*, 694 F.2d 327, 329 (4th Cir. 1982); *Myshka v. Elec. Boat Corp.*, 48 BRBS 79, 81 (2015). This rule applies not only when the

[12] The ALJ properly applied Section 20(a)'s framework to the March 2018 traumatic injury and found it compensable as a matter of law because Employer failed to rebut the presumption. D&O at 26-27. However, he failed to properly apply Section 20(a)'s invocation and rebuttal analyses to the March 2018 accident as an alleged aggravation of Claimant's pre-existing degenerative condition. *Metro Mach. Corp. v. Dir., OWCP [Stephenson]*, 846 F.3d 680, 690 (4th Cir. 2017); *Myshka v. Elec. Boat Corp.*, 48 BRBS 79, 81 (2015); *Leone v. Sealand Terminal Corp.*, 19 BRBS 100, 101 (1986). Nevertheless, we consider these errors to be harmless. *See Merrill v. Todd Pac. Shipyards Corp.*, 25 BRBS 140, 145 (1991); *Cairns v. Matson Terminals, Inc.*, 21 BRBS 252, 256 (1988). Claimant submitted sufficient evidence to invoke the presumption through Dr. Babington's opinion that the March 2018 accident aggravated Claimant's pre-existing condition. *See Rose*, 56 BRBS at 36; CXs 10, 36. Employer submitted sufficient evidence to rebut the presumption through Dr. Goss's opinion that Claimant's work-related injuries were resolved, and his current symptoms were related to his longstanding degenerative changes, not the March 2018 injury. *See Holiday*, 591 F.3d at 225; EXs 15, 21, 30, 38, 48.

underlying condition worsens, but also when the work incident causes the claimant's underlying condition to become symptomatic. *Gardner v. Dir., OWCP*, 640 F.2d 1385, 1389 (1st Cir. 1981); *Pittman v. Jeffboat, Inc.*, 18 BRBS 212, 214 (1986).

The ALJ weighed Drs. Babington's and Wardell's opinions that Claimant's work accident aggravated his pre-existing condition, and Dr. Goss's contrary opinion that Claimant's work-related injuries were resolved and any ongoing complaints were due to his unrelated pre-existing condition. D&O at 27-29. The ALJ concluded all three doctors are well-qualified to render opinions. *Id.* at 28-29. The ALJ found Dr. Babington's opinion well-reasoned based on his explanation of the MRI results that the increased T2 signal indicated trauma, in conjunction with Claimant becoming symptomatic after the accident. *Id.* at 28. Conversely, the ALJ found Dr. Wardell's opinion conclusory because he failed to adequately explain how Claimant's work accident caused his current condition. *Id.* The ALJ determined Dr. Goss's opinion that Claimant's work accident resulted in minor sprains to be reasoned; however, the ALJ noted that he failed to address Dr. Babington's opinion regarding the increased T2 signal demonstrating Claimant's condition was caused by his work accident. *Id.* at 28-29. For these reasons, the ALJ concluded Dr. Babington's opinion was the "best-reasoned" and carried "determinative weight." Therefore, he found the weight of the medical evidence demonstrated Claimant's current conditions were caused by his workplace accident. *Id.* at 27-29.

Employer contends the ALJ's decision does not comport with the requirements of the Administrative Procedure Act (APA), 5 U.S.C. §557(c)(3)(A), because he failed to consider Claimant's credibility when weighing the evidence as a whole.[13] Emp. Brief at

[13] The ALJ correctly rejected Employer's contention that it "rebutted the presumption" based on Claimant's credibility, holding "credibility . . . plays no part in the invocation of the Section 20(a) presumption" with respect to Claimant experiencing *a work-place injury*. D&O at 26-27; *see* Emp. Post-Hearing Brief at 38-42. But Employer alternatively asserted "even if Claimant invoked the Section 20 presumption," Employer rebutted it and that after "the presumption falls out of the case," "Claimant cannot meet his burden of proof, and the great weight of the evidence is that the Claimant's *work injury fully resolved*." Emp. Post-Hearing Brief at 42 (emphasis added). Immediately thereafter, Employer set out its review of the conflicting medical evidence, highlighting that Claimant "explicitly denied any prior neck, shoulder, or back pain" in reporting his symptoms with Dr. Babington and that Dr. Babington was otherwise "unaware" of Claimant's "significant history of prior back and neck problems." *Id.* at 42-50. Employer asserted "the overwhelming evidence is that the Claimant is not a credible witness, he lied to his doctors and at his deposition . . . and thus the Claimant has not established he suffered any injury nor any disability beyond what the Employer has already paid . . . ." *Id.* at 50. While Employer specifically raised Claimant's credibility with respect to invocation and rebuttal

30-31, 39; Emp. Reply Brief at 1-2, 4, 6; Emp. Post-Hearing Brief at 38-47, 50. It maintains Claimant's credibility is "highly relevant and undermines" Dr. Babington's opinion.[14] Emp. Brief at 30-31. Consequently, it asserts the ALJ's decision to accord the greatest weight to Dr. Babington's medical opinion is not supported by substantial evidence. *Id.* at 31-39. We agree.

The APA requires every adjudicatory decision to "include a statement of . . . findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record." 5 U.S.C. §557(c)(3)(A). An ALJ, therefore, must adequately detail the rationale behind his decision and specify the law and evidence upon which he relied. *Gelinas v. Elec. Boat Corp.*, 45 BRBS 69, 71-72 (2011); *Ballesteros v. Willamette W. Corp.*, 20 BRBS 184, 187 (1988). An ALJ's failure to independently analyze and discuss evidence violates the APA's requirement for a reasonable analysis. *Gelinas*, 45 BRBS at 71-72.

In this case, the ALJ summarized Claimant's pre-injury medical records from 2006 through 2017, including treatment for back, neck, shoulder, and wrist pain, multiple x-rays and MRIs on his back, neck, shoulder, and wrist, and epidural injections in his lumbar spine. D&O at 22-25; *see* EXs 51-58, 61-62. He noted Claimant testified he did not have neck, shoulder, wrist, or back problems prior to his work injury, despite the medical records that indicated Claimant had been treated multiple times for problems relating to his neck, back, wrist, and shoulder, which Claimant failed to recall. *Id.* at 4-5, 6-8; *see* EX 50. Nevertheless, the ALJ did not assess Claimant's credibility or discuss the relevance of his medical history when weighing the evidence as a whole on aggravation. *See Frazier v. Nashville Bridge Co.*, 13 BRBS 436, 437 (1983) (it is the ALJ's responsibility to fully evaluate the relevant evidence and provide some level of detail in his rationale to enable the reviewing body to accurately assess the decision). Therefore, we agree with Employer that further consideration is warranted.

Additionally, in giving Dr. Babington's opinion "determinative weight," the ALJ acknowledged the doctor's opinion was based on Claimant's representation that he was

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in its Post-Hearing Brief, we consider Employer's alternative argument and subsequent discussion of the medical evidence sufficient to also raise the issue of Claimant's credibility with respect to weighing the evidence for his aggravation injury, where it properly belongs.

[14] Employer asserts the ALJ's "summary of evidence clearly shows that *contradictory evidence and inconsistencies* exist which undeniably question the Claimant's credibility, including the evidence of the Claimant lying under oath about his past medical history." Emp. Brief at 31 (citing D&O at 2-8, 22-25) (emphasis added).

"asymptomatic before the workplace accident." D&O at 13-14, 28. Because Claimant's subjective reporting was crucial to Dr. Babington's opinion and treatment decisions, we agree with Employer that the ALJ's failure to consider Claimant's credibility affected his assessment of Dr. Babington's opinion. Specifically, the ALJ did not consider any of the medical opinions in conjunction with Claimant's credibility or prior medical history. *Id.* at 27-28. As the ALJ did not explain how the record as a whole supports his conclusion that Dr. Babington's opinion is entitled to "determinative weight" or address Employer's concerns about the reliability of Claimant's accounting of his medical history to Dr. Babington or the other physicians, we cannot affirm his weighing of the medical opinions. *See Gelinas*, 45 BRBS at 71-72; *Ballesteros*, 20 BRBS at 187; *Frazier*, 13 BRBS at 437; Emp. Brief at 31-39; Emp. Post-Hearing Brief at 38-47, 50.

Consequently, we vacate the ALJ's determination that Claimant has a work-related aggravation injury and remand the case for him to address Claimant's credibility and medical history in conjunction with weighing the medical opinion evidence as a whole. We also vacate the ALJ's findings on the nature and extent of Claimant's work-related disability and Section 8(f) relief. If, on remand, the ALJ again determines Claimant has a continuing work-related aggravation injury, he may reinstate his disability and Section 8(f) findings, as Employer did not raise those issues on appeal.

Accordingly, we vacate the ALJ's award of benefits and other related findings as stated above. We remand the case for further consideration consistent with this opinion. In all other respects, we affirm the ALJ's Decision and Order Awarding Benefits and Granting Section 8(f) Relief.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Acting Administrative Appeals Judge