BRB No. 98-1318 BLA

JANE E. McCANDLESS (Widow of ELWOOD H. McCANDLESS) Claimant-Respondent v. PEABODY COAL COMPANY and OLD REPUBLIC INSURANCE COMPANY Employer/Carrier-Petitioners DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	DATE ISSUED: DECISION and ORDER

Appeal of the Decision and Order on Remand and Supplemental Decision and Order Granting Attorney Fees of Rudolf L. Jansen, Administrative Law Judge, United States Department of Labor.

Jack N. Vanstone, Evansville, Indiana, for claimant.

Laura Metkoff Klaus and Gregory S. Feder (Arter & Hadden), Washington, D.C., for employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH and BROWN, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the [1998] Decision and Order on Remand (91-BLA-2197) of Administrative Law Judge Rudolf L. Jansen awarding benefits on a claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq*. (the Act). Employer also appeals the administrative law judge's [1998] Supplemental Decision and Order Granting Attorney Fees. This case is

before the Board for the third time. In the original Decision and Order issued on October 22, 1993, the administrative law judge credited the miner with twenty-five years of coal mine employment and adjudicated both the miner's duplicate claim and the survivor's claim pursuant to 20 C.F.R. Part 718.[1] Initially, the administrative law judge found the evidence sufficient to establish a material change in conditions in the miner's claim pursuant to 20 C.F.R. §725.309 and, therefore, considered the claim on the merits. The administrative law judge found the evidence sufficient to establish the existence of pneumoconiosis arising out of coal mine employment pursuant to 20 C.F.R. §§718.202(a)(1), (a)(2) and 718.203(b). Moreover, while the administrative law judge found the evidence insufficient to demonstrate total disability pursuant to 20 C.F.R. §718.204(c)(1)-(3), the administrative law judge found total disability established pursuant to 20 C.F.R. §718.204(c)(4) and total disability due to pneumoconiosis established pursuant to 20 C.F.R. §718.204(b). With regard to the survivor's claim, the administrative law judge found the evidence sufficient to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, benefits were awarded in both claims. Subsequently, the administrative law judge also issued a Supplemental Decision and Order Granting Attorney Fees on January 19, 1994.

[1] Claimant is the surviving widow of the miner, Elwood H. McCandless. The miner originally filed a claim on January 5, 1987, which was denied by the Department of Labor on April 22, 1987, because the miner failed to establish the existence of pneumoconiosis arising out of coal mine employment and total disability due to pneumoconiosis, Director's Exhibit 14. The miner filed a second, duplicate claim on July 17, 1990, *id*. The miner died on January 15, 1991, Director's Exhibit 4. Subsequently, claimant filed a survivor's claim on February 14, 1991, Director's Exhibit 1.

On appeal, in regard to the miner's claim, the Board affirmed the administrative law judge's finding that the existence of pneumoconiosis was established pursuant to Section 718.202(a)(2) and that total disability was not demonstrated pursuant to Section 718.204(c)(1)-(3), but vacated the administrative law judge's findings that total disability was established pursuant to Section 718.204(c)(4), that total disability due to pneumoconiosis was established pursuant to Section 718.204(b), the finding pursuant to Section 725.309, and remanded the miner's claim for further consideration. Regarding the survivor's claim, the Board affirmed the administrative law judge's finding at Section 718.205(c), and, therefore, affirmed the award of benefits in the survivor's claim. *McCandless v. Peabody Coal Co.*, BRB Nos. 94-0385 BLA/A (Aug. 22, 1995)(unpub.). In addition, the Board affirmed the administrative law judge's [1994] Supplemental Decision and Order Granting Attorney Fees, which, in part, reduced the hourly rate requested by claimant's counsel from $200 to $150.[2]

In a Decision and Order On Remand issued on August 28, 1996, the administrative law judge again found the evidence sufficient to establish total disability pursuant to Section 718.204(c)(4) and total disability due to pneumoconiosis pursuant to Section 718.204(b). Accordingly, benefits were awarded in the miner's claim. Subsequently, the administrative law judge also issued a Supplemental Decision and Order Granting Attorney Fees on November 7, 1996, and a Second Supplemental Decision and Order Granting Attorney Fees

[2] Employer has appealed the Board's 1995 Decision and Order affirming the award of benefits in the survivor's claim and the administrative law judge's 1994 award of attorney fees to the United States Court of Appeals for the Seventh Circuit, within whose jurisdiction this case arises, which has ordered the case be held in abeyance, pending resolution of the miner's claim. *Peabody Coal Co., et al., v. Director, OWCP* [*McCandless*], No. 95-3291 (Oct. 20. 1995, 7th Cir.)(unpub. order). In addition, the Board awarded claimant's counsel attorney fees for services performed before the Board in the original appeal. *McCandless v. Peabody Coal Co.*, BRB Nos. 94-0385 BLA/A (May 22, 1997)(unpub. order). The Board reaffirmed its order on reconsideration. *McCandless v. Peabody Coal Co.*, BRB Nos. 94-0385 BLA/A (Oct. 7, 1997)(unpub. order).

on January 29, 1997.

On appeal, the Board held that the evidence of record is sufficient to establish a material change in conditions pursuant to Section 725.309, as claimant established the existence of pneumoconiosis, but vacated the administrative law judge's findings pursuant to Section 718.204(b) and (c), as the administrative law judge did not weigh all of the contrary evidence of record, like and unlike, and remanded the case for reconsideration. *McCandless v. Peabody Coal Co.*, BRB No. 96-1738 BLA (Sep. 23, 1997)(unpub.). In addition, the Board affirmed the administrative law judge's [1996] Supplemental Decision and Order Granting Attorney Fees and [1997] Second Supplemental Decision and Order Granting Attorney Fees, including the $200 hourly rate requested by claimant's counsel.

On remand, at issue herein, the administrative law judge found total disability demonstrated by the medical opinion evidence pursuant to Section 718.204(c)(4) and total disability established pursuant to Section 718.204(c). The administrative law judge further found total disability due to pneumoconiosis established pursuant to Section 718.204(b). Accordingly, benefits were awarded. Subsequently, the administrative law judge issued a Supplemental Decision and Order Granting Attorney Fees, finding claimant's counsel entitled to a fee of $900.00 for 4.5 hours of services at an hourly rate of $200.00. On appeal, employer contends that changes in law require the administrative law judge to reconsider his findings that the existence of pneumoconiosis was established by the x-ray evidence pursuant to Section 718.202(a)(1) and, alternatively, by the autopsy evidence pursuant to Section 718.202(a)(2). Employer also contends that the administrative law judge erred in finding total disability established pursuant to Section 718.204(c) and total disability due to pneumoconiosis established pursuant to Section 718.204(b). Finally, regarding the administrative law judge's award of attorney fees to claimant's counsel, employer contends that the administrative law judge erred in finding that claimant's counsel is entitled to an hourly rate of $200.00 and in compensating claimant's counsel for an unreasonable number of hours for legal services. Claimant responds, urging affirmance of the administrative law judge's [1998] Decision and Order on Remand and the administrative law judge's Supplemental Decision and Order Granting Attorney Fees. The Director, Office of Workers' Compensation Programs, as a party-in-interest, has not responded to this appeal.

The Board's scope of review is defined by statute. If the administrative law judge's findings of fact and conclusions of law are supported by substantial evidence, are rational, and are consistent with applicable law, they are binding upon this Board and may not be disturbed. 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 Associates, Inc.*, 380 U.S. 359 (1965).

In order to establish entitlement to benefits under Part 718 in the miner's claim, it must be established that the miner suffered from pneumoconiosis, that the pneumoconiosis

arose out of coal mine employment, and that the pneumoconiosis was totally disabling. 20 C.F.R. §§718.3; 718.202; 718.203; 718.204; *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986). Failure to prove any one of these elements precludes entitlement, *id*. Pursuant to Section 718.204(c), the administrative law judge must weigh all relevant evidence, like and unlike, with the burden on claimant to establish total respiratory disability by a preponderance of the evidence, *see Budash v. Bethlehem Mines Corp.*, 16 BLR 1-27 (1991)(*en banc*); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987); *Rafferty v. Jones & Laughlin Steel Corp.*, 9 BLR 1-231 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195 (1986). In order to establish total disability due to pneumoconiosis pursuant to Section 718.204(b), in this case arising within the jurisdiction of the United States Court of Appeals for the Seventh Circuit, claimant has the burden to establish that pneumoconiosis is, at least, a contributing cause of his total disability, and, in order to be a contributing cause, pneumoconiosis must be a necessary, but need not be a sufficient condition of the total disability, *see Shelton v. Director, OWCP*, 899 F.2d 630, 13 BLR 2-444 (7th Cir. 1990); *Hawkins v. Director, OWCP*, 906 F.2d 697, 14 BLR 2-17 (7th Cir. 1990). Claimant must prove a simple "but for" nexus to be entitled to benefits, *id*.

Initially, employer contends that changes in law require the administrative law judge to reconsider his findings that the existence of pneumoconiosis was established by the x-ray evidence pursuant to Section 718.202(a)(1) and, alternatively, by the autopsy evidence pursuant to Section 718.202(a)(2). Inasmuch as the Board previously affirmed the administrative law judge's finding that the existence of pneumoconiosis was established pursuant to Section 718.202(a)(2), *McCandless*, BRB Nos. 94-0385 BLA/A, we need not address employer's contention pursuant to Section 718.202(a)(1), *see Dixon v. North Camp Coal Co.*, 8 BLR 1-344 (1985). Moreover, employer again raises the same contentions that it advanced in its previous appeal and which were already addressed by the Board in its original Decision and Order regarding the administrative law judge's weighing of the evidence at Section 718.202(a)(2) and does not cite to any intervening case law issued since the Board's original Decision and Order. Thus, inasmuch as the Board's previous holding stands as law of the case on this issue, and no exception to that doctrine has been demonstrated by employer herein, *see Brinkley v. Peabody Coal Co.*, 14 BLR 1-147 (1990); *Williams v. Healy-Ball-Greenfield*, 22 BRBS 234, 237 (1989)(2-1 opinion: with Brown, J., dissenting), we reject employer's contentions in this regard.[3]

[3] The law of the case doctrine is a discretionary rule of practice, based on the policy

that when an issue is litigated and decided, that decision should be the end of the matter, such that it is the practice of courts generally to refuse to reopen in a later action what has been previously decided in the same case, *see Brinkley v. Peabody Coal Co.*, 14 BLR 1-147 (1990); *Williams v. Healy-Ball-Greenfield*, 22 BRBS 234, 237 (1989)(2-1 opinion: with Brown, J., dissenting).

Next, pursuant to Section 718.204(c)(4), the administrative law judge gave greater weight to Dr. Gelhausen's opinion that the miner suffered from a totally disabling respiratory impairment, Claimant's Exhibit 2, as the miner's treating physician, over the contrary opinions of Drs. Crouch and Tuteur, who reviewed the evidence, Employer's Exhibits 2, 5, 9, 10, 12,[4] and the remaining medical opinions of record which either did not address the issue of disability and/or were equivocal. Decision and Order On Remand at 4-6. Although the administrative law judge noted that Dr. Gelhausen's opinion was not automatically entitled to greater weight as the miner's treating physician, he gave his opinion greater weight in light of his familiarity with the miner's pulmonary condition during his lifetime as the miner's treating physician for over five years and having had numerous opportunities to personally observe the miner's pulmonary condition throughout the final years of his life, Decision and Order On Remand at 5. Employer contends that the administrative law judge erred in finding Dr. Gelhausen's opinion sufficient to demonstrate a totally disabling respiratory or pulmonary impairment under subsection (c)(4) and erred in giving his opinion greater weight over those physicians who did not examine the miner merely because he was the miner's treating physician.

Contrary to employer's contention, the Board held in its original Decision and Order that the administrative law judge acted permissibly within his discretion as trier of fact in finding Dr. Gelhausen's opinion sufficient to establish a totally disabling respiratory or pulmonary impairment, *see Gee v. W.G. Moore and Sons*, 9 BLR 1-4 (1986). *McCandless*, BRB Nos. 94-0385 BLA/A at 5-6; *see also Brinkley, supra*; *Williams, supra*. Moreover, in the Board's prior Decision and Order, the Board held that the administrative law judge properly accorded greater weight to the opinion of Dr. Gelhausen than to the contrary opinions of record because he treated the miner, *see Onderko v. Director, OWCP*, 14 BLR 1-2 (1989); *Wilson v. United States Steel Corp.*, 6 BLR 1-1055 (1984). *McCandless*, BRB No. 96-1738 BLA at 4; *see also Brinkley, supra*; *Williams, supra*. In addition, the administrative law judge also properly found that claimant's testimony supported Dr. Gelhausen's opinion, *see Fields, supra*, and the administrative law judge, within his discretion, found the physician's opinion entitled to greater weight because it was well-reasoned and documented, *see Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Fields, supra*; *Lucostic v. United States Steel Corp.*, 8 BLR 1-46 (1985). Thus, we reject employer's contention that the administrative law judge erred by relying on Dr. Gelhausen's opinion under subsection (c)(4).

[4] Dr. Crouch opined that the miner did not suffer from any prior respiratory impairment contributed to by coal dust exposure. Director's Exhibit 10. Dr. Tuteur opined that the miner did not suffer from a totally disabling respiratory impairment. Employer's Exhibits 2, 5, 12.

Ultimately, after weighing the medical opinion evidence with the non-qualifying objective studies of record, the administrative law judge found that Dr. Gelhausen's opinion outweighs the other evidence of record and found that based on the medical evidence overall, both like and unlike, the evidence is sufficient to establish total disability under Section 718.204(c). Consequently, as the administrative law judge weighed all the relevant evidence, like and unlike, we affirm the administrative law judge's finding that total disability was established pursuant to Section 718.204(c) as supported by substantial evidence, *see Budash*, *supra*; *Fields*, *supra*; *Rafferty*, *supra*; *Shedlock*, *supra*.

Next, the administrative law judge found that total disability due to pneumoconiosis was established pursuant to Section 718.204(b) in accordance with the standard enunciated by the Seventh Circuit Court in *Shelton*, *supra*, and *Hawkins*, *supra*. Inasmuch as the administrative law judge found the existence of pneumoconiosis established, the administrative law judge gave less weight to the opinions of Drs. Crouch, Tuteur, Kleinerman and Wilhelmus, Director's Exhibits 10, 14; Employer's Exhibits 2, 5-7, 10, 12-13, who found that the miner was not totally disabled due to pneumoconiosis because he did not have pneumoconiosis. Decision and Order On Remand at 6. The administrative law judge gave greatest weight to Dr. Gelhausen's opinion, as the miner's treating physician, that the miner was totally disabled due to his pulmonary condition related to his exposure to coal dust, Claimant's Exhibit 2; *see* 30 U.S.C. §902(b); 20 C.F.R. §718.201, as the administrative law judge found it well-reasoned and supported by the opinion of Dr. Combs, Employer's Exhibit 3, who stated that the miner's lung defect may be due to pneumoconiosis. Weighing all of the relevant evidence, the administrative law judge found total disability due to pneumoconiosis established pursuant to Section 718.204(b).

Employer contends that the administrative law judge erred in finding Dr. Gelhausen's opinion to be reasoned and documented under Section 718.204(b) in light of other risk factors in the record accounting for the miner's disability, such as arthritis, heart disease and smoking, which employer contends Dr. Gelhausen and the administrative law judge failed to consider. In addition, employer again contends that the administrative law judge erred in giving Dr. Gelhausen's opinion greater weight merely because he was the miner's treating physician and in giving less weight to the physicians who found that the miner was not totally disabled due to pneumoconiosis merely because they did not diagnose pneumoconiosis.

Inasmuch as the Board previously affirmed the administrative law judge's finding that the existence of pneumoconiosis was established pursuant to Section 718.202(a)(2), *McCandless*, BRB Nos. 94-0385 BLA/A, the administrative law judge did not err in giving less weight to the physicians' contrary opinions in regard to causation, inasmuch as the underlying premise of their opinions, that the miner did not have pneumoconiosis, was inaccurate, *see Trujillo v. Kaiser Steel Corp.*, 8 BLR 1-472 (1986). Moreover, the Board also

held in its prior Decision and Order that the administrative law judge properly accorded greater weight to the opinion of Dr. Gelhausen than to the contrary opinions of record because he treated the miner, *see Onderko, supra*; *Wilson, supra*. *McCandless*, BRB No. 96-1738 BLA at 4; *see also Brinkley, supra*; *Williams, supra*. Finally, it is within the administrative law judge's discretion to determine whether an opinion, such as Dr. Gelhausen's, is adequately documented and reasoned, *see Clark, supra*; *Fields, supra*; *Lucostic, supra*, and the Board is not empowered to reweigh the evidence nor substitute its inferences for those of the administrative law judge, *see Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989); *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20 (1988). Consequently, inasmuch as the administrative law judge weighed all the relevant evidence, we affirm the administrative law judge's finding that total disability due to pneumoconiosis was established pursuant to Section 718.204(b) as supported by substantial evidence, *see Shelton, supra*; *Hawkins, supra*, and, therefore, affirm the administrative law judge's award of benefits in the miner's claim.

Employer also appeals the Supplemental Decision and Order Granting Attorney Fees awarding claimant's counsel's attorney fees. Claimant's counsel requested a fee of $997.50 for 4.75 hours of services performed before the administrative law judge at an hourly rate of $210.00. Employer objected, contending that the hourly rate requested by claimant's counsel was excessive and should be reduced to $150.00 and objected that three-quarter hours of the services requested by claimant's counsel were for clerical matters and, therefore, unreasonable. The administrative law judge found that considering the quality of the representation, the qualifications of claimant's counsel, the complexity of the issues involved, the level of the proceedings to which this claim was raised and at which claimant's counsel entered, claimant's counsel was entitled to the hourly rate of $200.00, consistent with the administrative law judge's prior award of attorney fees in this case, *see* 20 C.F.R. §725.366. The administrative law judge disallowed one-quarter hour of the services requested by claimant's counsel as it was for a clerical matter. Thus, the administrative law judge found claimant's counsel entitled to a fee of $900.00 for 4.5 hours of services at an hourly rate of $200.00.

The award of an attorney's fee is discretionary and will be upheld on appeal unless shown by the challenging party to be arbitrary, capricious, or an abuse of discretion, *see Abbott v. Director, OWCP*, 13 BLR 1-15 (1989), *citing Marcum v. Director, OWCP*, 2 BLR 1-894 (1980). The adjudicating officer must discuss and apply the regulatory criteria at 20 C.F.R. §725.366 in determining the fee award due, if any. *See Lenig v. Director, OWCP*, 9 BLR 1-147 (1986).

Employer specifically contends that the administrative law judge's and the Board's previous findings that claimant's counsel was entitled to an hourly rate of $150.00 for legal services performed before them in this case is the law of the case. We reject employer's

contention. As the Board previously held, *see McCandless*, BRB No. 96-1738 BLA at 5-6, because an administrative law judge, in considering the amount of an attorney's fee, must take into account the factors set out at Section 725.366[5] and apply them to the circumstances of the particular case for which the fee is sought, he is not bound by the awards of attorney's fees granted in other proceedings. *See Whitaker v. Director, OWCP*, 9 BLR 1-216 (1986). Employer also contends that the administrative law judge erroneously awarded claimant's counsel an hourly rate of $200.00 based on a contingency enhancement. As the Board previously held, *see McCandless*, BRB No. 96-1738 BLA at 7; *see also Brinkley*, *supra*; *Williams*, *supra*, claimant's counsel's hourly rate was not improperly enhanced with a contingency multiplier. Thus, we reject employer's contention, *see City of Burlington v. Dague*, 112 S.Ct. 2638 (1992).

Next, employer contends that the administrative law judge erred in finding that employer offered no factual support for its contention that the hourly rate requested by claimant's counsel should be $150.00, inasmuch as employer contends that it is claimant's counsel that bears the burden of proof to establish the reasonableness his fee request. In addition, employer contends that Section 725.366 is invalid as it provides no basis for determining a reasonable hourly rate or an adequate explanation as required by the Administrative Procedure Act for the hourly rate awarded. However, the administrative law judge properly applied the regulatory criteria at Section 725.366 in determining the fee award due to claimant's counsel. Moreover, employer's contention is insufficient to meet employer's burden of proving that the rate awarded was excessive or that the administrative law judge abused his discretion in this regard, *generally Broyles v. Director, OWCP*, 974 F.2d 508, 17 BLR 2-1 (4th Cir. 1992); *Pritt v. Director, OWCP*, 9 BLR 1-159 (1986); *see also Jones v. Badger Coal Co.*, 21 BLR 1-102 (1998)(*en banc*) (affirming an administrative law judge's award of an hourly rate of $200.00). In addition, as the Board previously held, *see McCandless*, BRB No. 96-1738 BLA at 7-8; *see also Brinkley*, *supra*; *Williams*, *supra*, we reject employer's contention that the administrative law judge erred by approving claimant's counsel's request for services in increments of one-quarter an hour for services as the administrative law judge considered the reasonableness of the time claimed by claimant's counsel, *see Abbott*, *supra*; *Marcum*, *supra*.[6]

---

[5] The pertinent regulations provide that "[a]ny fee approved under...this section shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the qualifications of the representative, the complexity of the legal issues involved, the level of proceedings to which the claim was raised, the level at which the representative entered the proceedings, and any other information which may be relevant to the amount of fee requested." 20 C.F.R. §725.366(b).

[6] As the Board previously held, *McCandless*, BRB Nos. 94-0385 BLA/A at 8 n. 10; *see also Brinkley*, *supra*; *Williams*, *supra*, employer's contention that the practice of claiming

fifteen minutes for routine tasks was rejected by the United States Court of Appeals for the Fourth Circuit in *Broyles v. Director, OWCP*, 974 F.2d 508, 17 BLR 2-1 (4th Cir. 1992) is incorrect. Whereas the Fourth Circuit Court held that the fifteen minute rule was unreasonable based on the facts in that case, given that fifteen minutes were claimed for tasks performed in the Fourth Circuit Court's clerk's office which did not take that amount of time, there is no such consideration in this case.

Finally, employer also contends that while the amount of fees awarded claimant's counsel may have been for necessary work done to successfully prosecute the claim, the amount is unreasonable as claimant's counsel has been awarded more than five times that amount of benefits awarded in the miner's claim. However, as claimant's counsel notes, the fees incurred by claimant's counsel are the result of appeals of the award of benefits filed by employer. Moreover, claimant's counsel is entitled to fees for all necessary services rendered on behalf of the claimant at each level of the adjudicatory process, even if he was unsuccessful at a particular level, so long as the claimant is ultimately successful in prosecuting the claim, 33 U.S.C. §928(a), as incorporated by 30 U.S.C. §932(a); *see generally Clark v. Director, OWCP*, 9 BLR 1-211 (1986), *overruled on other grounds by Brodhead v. Director, OWCP*, 17 BLR 1-138 (1993). Inasmuch as claimant's counsel could reasonably have regarded the work he performed before the Office of Administrative Law Judges as necessary for the successful prosecution of the claim at the time the work was performed and the work was relevant to claimant's success in obtaining benefits, we reject employer's contention, *see Brodhead*, *supra*; *Lanning v. Director, OWCP*, 7 BLR 1-314 (1984).

Accordingly, the administrative law judge's [1998] Decision and Order on Remand awarding benefits in the miner's claim is affirmed and the administrative law judge's [1998] Supplemental Decision and Order Granting Attorney Fees is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge