

ELIZABETH ARMFIELD)	
)	
Claimant-Respondent)	
)	
v.)	
)	
SHELL OFFSHORE,)	DATE ISSUED:_____
INCORPORATED)	
)	
Self-Insured)	
Employer-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS,)	
UNITED STATES DEPARTMENT)	
OF LABOR)	
)	
Respondent)	DECISION and ORDER

Appeal of the Decision on Remand and the Order on Motion for Reconsideration of Ben H. Walley, Administrative Law Judge, United States Department of Labor.

D.A. Bass-Frazier (Law Offices of Michael G. Huey), Mobile, Alabama, for claimant.

J. Patrick Courtney, III, and Allen E. Graham (Lyons, Pipes & Cook, P.C.), Mobile, Alabama, for self-insured employer.

Laura Stomski (J. Davitt McAteer, Acting Solicitor of Labor; Carol A. DeDeo, Associate Solicitor; Janet R. Dunlop, Counsel for Longshore), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer appeals the Decision on Remand and the Order on Motion for Reconsideration (88-LHC-2552, 88-LHC-2553) of Administrative Law Judge Ben H. Walley rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in

accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

This is the second time this case has come before the Board. Claimant, who worked as a roustabout, sustained injuries to her wrists and back during the course of her employment with employer. She also developed work-related depression and post-traumatic neurosis. In his initial decision, the administrative law judge awarded claimant temporary total disability benefits for the wrist injuries, and permanent total disability and medical benefits for the back and psychological injuries. Decision and Order at 23. Employer appealed, and the Board affirmed the administrative law judge's determination that employer's vocational evidence did not establish the availability of suitable alternate employment; however, it concluded that he did not fully discuss whether claimant's eight-month-long post-injury job as a secretary constituted suitable alternate employment. *Armfield v. Shell Offshore, Inc.*, 25 BRBS 303 (1992) (Smith, J., concurring and dissenting). The Board remanded the case for the administrative law judge to further consider only that aspect of the suitable alternate employment issue. *Id.* at 307. In all other respects, the Board affirmed the administrative law judge's decision. *Id.* at 309.

On remand, the administrative law judge specifically found that claimant was physically able to perform the secretarial duties, but that the position was not within her psychological limitations. Decision on Remand at 2. He concluded that she had difficulty handling personal conflict and that the altercation which led to her termination was related to this psychological problem. *Id.* at 2-3. The administrative law judge then denied employer's motion for reconsideration. Employer appeals these decisions. Claimant and the Director, Office of Workers' Compensation Programs (the Director), respond, urging affirmance.

Employer first contends the administrative law judge applied an incorrect standard for determining the availability of suitable alternate employment and erred in rejecting the proffered vocational evidence. As claimant and the Director argue, this issue was addressed and decided in the Board's previous opinion, *Armfield*, 25 BRBS at 306, which constitutes the law of the case. Therefore, we decline to revisit this issue. See *Bruce v. Bath Iron Works Corp.*, 25 BRBS 157, 159 (1991).

The issue of whether the secretarial position constitutes suitable alternate employment is properly before the Board. Once a claimant demonstrates an inability to return to her usual work, an employer may prove that the claimant is only partially disabled by establishing the availability of other jobs the claimant can realistically secure and perform given her age, education, physical restrictions and vocational history. *New Orleans (Gulfwide) Stevedores v. Turner*, 661 F.2d 1031, 14 BRBS 156 (5th Cir. 1981). Employer contends the secretarial position satisfies its burden, and claimant is only partially disabled.

Further, employer argues that the administrative law judge erred in relying on Dr. Renick's testimony.

Claimant testified that she worked as a secretary/bookkeeper from October 1987 through May 1988 when she was terminated. *Tr.* at 60; *see also* *Jt. Ex. 7* at 35. Her duties included processing payroll and running another company owned by her boss. *Tr.* at 59. According to claimant, her boss required typing only on rare occasions, and he permitted her to lie down if she had difficulties. *Id.* at 100.

Dr. Renick, claimant's psychiatrist, diagnosed atypical depression and post-traumatic stress disorder, both of which he concluded are work-related. *Jt. Ex. 7* at 7, 9, 13, 19-20. Further, he testified that claimant is unable to work because of her difficulty with concentration, anxiety and fatigue, and her difficulty handling stressful situations which produce the "hopeless/helpless syndrome." He also stated that her condition has deteriorated. *Id.* at 11, 14, 19, 31, 34-36.

The administrative law judge credited the testimony of both claimant and Dr. Renick. Decision and Order at 18; Decision on Remand at 2-3. He concluded that claimant's psychological problems cause her to have difficulty handling interpersonal conflict; therefore, she has a psychological inability to handle a job, and she worked only with "extraordinary effort." Decision on Remand at 2-3. Consequently, he found that the secretarial position did not fall within claimant's psychological limitations. *Id.* at 2.

As Dr. Renick's testimony is uncontradicted, and as questions of witness credibility are for the administrative law judge as the trier-of-fact, *Calbeck v. Strachan Shipping Co.*, 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403 (2d Cir. 1961), we reject employer's argument that the administrative law judge erred in relying on Dr. Renick's opinion. Credible testimony supports the administrative law judge's determination that claimant has work-related psychological problems which prevent her from handling work encounters. *See generally* *Mijangos v. Avondale Shipyards, Inc.*, 948 F.2d 941, 25 BRBS 78 (CRT)(5th Cir. 1991); *Jones v. Genco, Inc.*, 21 BRBS 12 (1988). Consequently, we affirm the finding that claimant's secretarial position did not constitute suitable alternate employment, as well as his determination that

claimant is permanently totally disabled. *Caudill v. Sea Tac Alaska Shipbuilding*, 25 BRBS 92 (1991), *aff'd mem. sub nom. Sea Tac Alaska Shipbuilding v. Director, OWCP*, 8 F.3d 29 (9th Cir. 1993); *Hite v. Dresser Guiberson Pumping*, 22 BRBS 261 (1988).

Accordingly, the administrative law judge's decision is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge