

THOMAS DOROUGH	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
ALABAMA DRY DOCK &	)	DATE ISSUED: _____
SHIPBUILDING CORPORATION	)	
	)	
and	)	
	)	
ADDSCO SERVICES CORPORATION	)	
	)	
Employer/Carrier-	)	
Respondents	)	DECISION and ORDER

Appeal of the Denial of Notice of Reconsideration of E. Earl Thomas, Administrative Law Judge, United States Department of Labor.

Kenneth Cooper, Bay Minette, Alabama, for claimant.

Walter R. Meigs, Mobile, Alabama, for employer/carrier.

Before: SMITH, BROWN and DOLDER, Administrative Appeals Judges.  
PER CURIAM:

Employer appeals the Denial of Notice of Reconsideration of Administrative Law Judge E. Earl Thomas 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 findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

In this case, which is before the Board for the second time, claimant sustained an injury to his coccyx and lower back on June 4, 1976 while working for employer. In May, 1979, the parties settled the disability claim for \$20,000, and claimant retained the right to future medical care for as long as necessary. Subsequently, a dispute arose when employer refused to pay for any medical treatment of coccygeal and back pain after October 14, 1980. In addition, after the issuance of the administrative law judge's initial Decision and Order, while the parties awaited a response to employer's Motion for Reconsideration, claimant asserted that employer should be liable for treatment of his psychological condition. The administrative law judge found that both claimant's

chronic pain and psychological difficulties were work-related and ordered employer to pay all outstanding medical expenses.

On appeal, the Board vacated the administrative law judge's finding that claimant's psychological condition was work-related and remanded for reconsideration of this issue, inasmuch as claimant had raised the issue of employer's liability for his psychological problems after the issuance of the administrative law judge's Decision and Order and employer had not been provided with at least 10 days notice or with the opportunity to submit evidence rebutting claimant's contention that his psychological condition was work-related. In addition, the Board vacated the administrative law judge's determination that claimant's continuing back pain was work-related, finding that the administrative law judge erred in concluding that there was no evidence that the work injury did not cause or aggravate claimant's present difficulties in light of Dr. George's unequivocal October 1980 opinion. The Board remanded the case for the administrative law judge to weigh the evidence as a whole to determine whether claimant's chronic lumbosacral pain was related to his work injury. Moreover, the Board addressed the compensability of certain medical bills, determined that any reimbursement to claimant is limited to his out-of-pocket expenses, and remanded for the administrative law judge to clarify the specific medical bills employer was to pay. *See Dorrough v. Alabama Dry Dock & Shipbuilding Corp.*, BRB No. 88-1390 (Aug. 31, 1990)(unpublished).

On remand, additional evidence was submitted, including depositions of claimant, his wife, three psychiatrists, and a private investigator. In an Order On Remand dated April 25, 1991, after weighing the relevant evidence of record, the administrative law judge credited the 1986 medical opinion of Dr. George and determined that employer was not liable for medical benefits for claimant's back pain after October 1980 because any symptomology he experienced thereafter was not related to the work accident. In a Decision and Order On Remand dated February 12, 1992, the administrative law judge further determined that even though there was a work-related accident in 1976 and claimant offered evidence to show that he has a mental illness, employer had established rebuttal of the Section 20(a) presumption based on the opinion of its psychologist, Dr. Brown. Crediting Dr. Brown's opinion over those provided by claimant's treating psychiatrists, Drs. Amyx and Barnes, which he characterized as not well-reasoned, and the surveillance evidence introduced by employer which depicted claimant engaging in shrimping activities and socializing, the administrative law judge found that there was insufficient reliable evidence to conclude that claimant did, in fact, have a mental illness but that, assuming he did, it was not work-related. On February 26, 1992, the administrative law judge summarily denied claimant's motion for reconsideration.

On appeal, claimant challenges the administrative law judge's denial of medical benefits for his psychological condition, specifically arguing that the administrative law judge should have accorded greater weight to the testimony of his wife and treating psychiatrists. Employer responds, urging affirmance.

The administrative law judge's denial of medical benefits for claimant's psychological condition is affirmed. The administrative law judge's finding that this condition, if in fact it exists, is not related to the work injury is rational, in accordance with applicable law, and is supported both by the medical opinion of Dr. Brown<sup>1</sup> and his negative assessment of claimant's credibility based on the

---

<sup>1</sup>Dr. Brown did not express an opinion as to whether claimant actually has psychiatric disability, due to inconsistencies between claimant's representations to him that he has no social contacts or

surveillance evidence which belied claimant's assertion that he was rendered non-functional due to depression. See *O'Keeffe*, 380 U.S. at 360; *Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 1335, 8 BRBS 744, 747 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). Because Dr. Brown's opinion in conjunction with his negative assessment of claimant's credibility provide substantial evidence to support the administrative law judge's finding that claimant suffers no work-related psychiatric problems, and claimant has failed to raise any reversible error made by the administrative law judge in evaluating the conflicting testimony and making credibility determinations, his denial of medical benefits for claimant's psychiatric condition is affirmed. See generally *Uglesich v. Stevedoring Services of America*, 24 BRBS 180, 183 (1991). Although claimant also asserts that the administrative law judge erred in concluding that his chronic back pain is not causally related to his June 4, 1976, work injury, we decline to address this argument because it has not been adequately briefed. See *Collins v. Oceanic Butler, Inc.*, 23 BRBS 227 (1990).

---

friends and spends most of his time in bed and the contrary information depicted on the surveillance tapes. Rx. 2 at 10-12. Dr. Brown also testified, however, upon further questioning that assuming that claimant had psychiatric problems, he believed that the 1976 injury was so relatively insignificant that when combined with the passage of time and the nature of the injury it would not have produced any kind of emotional illness. Rx. 2 at 30.

Accordingly, the administrative law judge's Denial of Notice of Reconsideration of the Decision and Order on Remand is affirmed.

SO ORDERED.

ROY P. SMITH  
Administrative Appeals Judge

JAMES F. BROWN  
Administrative Appeals Judge

NANCY S. DOLDER  
Administrative Appeals Judge