U.S. Department of Labor

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

BRB No. 21-0051 BLA

MICHAEL R. SARGENT	)	
	)	
Claimant	)	
	)	
v.	)	
	)	
CUMBERLAND RIVER COAL COMPANY	)	DATE ISSUED: 12/21/2022
	)	
Employer-Petitioner	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Francine L. Applewhite, Administrative Law Judge, United States Department of Labor.

William S. Mattingly (Jackson Kelly PLLC), Lexington, Kentucky, for Employer.

Olgamaris Fernandez (Seema Nanda, Solicitor of Labor; Barry H. Joyner, Associate Solicitor), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: BUZZARD, ROLFE, and JONES, Administrative Appeals Judges.

ROLFE and JONES, Administrative Appeals Judges:

Employer appeals Administrative Law Judge (ALJ) Francine L. Applewhite's Decision and Order Granting Benefits (2018-BLA-06093) rendered on a claim filed on April 4, 2017, pursuant to the Black Lung Benefits Act, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ found Employer is the properly designated responsible operator. She credited Claimant with at least fifteen years of qualifying coal mine employment and found he established a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). She therefore found Claimant invoked the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[1] 30 U.S.C. §921(c)(4) (2018). She also found Employer did not rebut the presumption and awarded benefits.

On appeal, Employer challenges the ALJ's finding that it is the responsible operator. Employer also challenges the constitutionality of the Section 411(c)(4) presumption. Alternatively, it argues the ALJ erred in finding it did not rebut the presumption.[2] The Director, Office of Workers' Compensation Programs (the Director), filed a limited response brief urging the Benefits Review Board to reject Employer's responsible operator and constitutional arguments. Claimant did not file a response brief.

The Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.[3] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc*., 380 U.S. 359 (1965).

Responsible Operator

The responsible operator is the "potentially liable operator, as determined in accordance with [20 C.F.R.] §725.494, that most recently employed the miner" for at least one year.[4] 20 C.F.R. §§725.494(c), 725.495(a)(1). The district director is initially charged

[1] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis if he has at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305.

[2] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant invoked the Section 411(c)(4) presumption. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4; 6-9.

[3] We will apply the law of the United States Court of Appeals for the Fourth Circuit, because Claimant performed his last coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibits 3, 5; *see infra* at 3.

[4] For a coal mine operator to meet the regulatory definition of a "potentially liable operator," each of the following conditions must be met: a) the miner's disability or death

with identifying and notifying operators that may be liable for benefits, and then identifying the "potentially liable operator" that is the responsible operator. 20 C.F.R. §§725.407, 725.410(c), 725.495(a), (b). Once the district director designates a responsible operator, that operator may be relieved of liability only if it proves it is either financially incapable of assuming liability for benefits or another "potentially liable operator" that is financially capable of assuming liability more recently employed the miner for at least one year. 20 C.F.R. §725.495(c); *see RB&F Coal, Inc. v. Mullins,* 842 F.3d 279, 282 (4th Cir. 2016).

In determining whether Employer is the responsible operator, the ALJ considered Claimant's paystubs, Social Security Administration (SSA) Earnings Records, and the district director's findings. Director's Exhibits 6-14; 16; 56. The ALJ noted that Claimant's SSA earnings record and paystubs reflect that, subsequent to his work for Employer from 1995 to 2014, Claimant received income from Revelation Energy (Revelation) in 2014 and 2015 and from A&G Coal Corporation (A&G) in 2015 and 2016. Decision and Order at 5. However, she found Claimant's work for Revelation and A&G did not last for at least one year, and therefore determined Employer is the responsible operator that last employed Claimant as a coal miner for at least one year. *Id*.

Employer contends the ALJ erred in finding Claimant was employed for less than a year for A&G Coal.[5] Employer's Brief at 8-13. The Director urges the Board to reject Employer's arguments. Director's Response at 4-6. We agree with the Director's argument.

Initially Employer argues that the ALJ's determination that this case is governed by the Fourth Circuit Court of Appeals is unsupported by the record, as there is no evidence of the state in which Claimant last worked in coal mine employment. Employer's Brief at 13. Thus, Employer argues the case should be remanded for the development of evidence relevant to jurisdiction. *Id.* Contrary to Employer's arguments, Claimant repeatedly indicated he last worked in coal mine employment in Norton, Virginia. Director's Exhibits

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must have arisen at least in part out of employment with the operator; b) the operator or its successor must have been in business after June 30, 1973; c) the operator must have employed the miner for a cumulative period of not less than one year; d) at least one day of the employment must have occurred after December 31, 1969; and e) the operator must be financially capable of assuming liability for the payment of benefits, either through its own assets or through insurance. 20 C.F.R. §725.494(a)-(e).

[5] We affirm, as unchallenged on appeal, the ALJ's determination that Revelation Energy (Revelation) did not employ Claimant as a miner for at least one year. *See Skrack*, 6 BLR at 1-711; Decision and Order at 5.

3, 5. Specifically, although Claimant did not state he worked for A&G Coal Corporation (A&G Coal) in Norton, Virginia, he did indicate he last worked in coal mine employment for Justice Brothers Coal in Norton, Virginia. Director's Exhibits 3, 5. Moreover, Employer and the Director have maintained throughout the case that A&G Coal and Justice Brothers Coal are the same entity. Director's Closing Arguments at 4-5; Employer's Closing Arguments at 2-4; Hearing Transcript at 13; Director's Response to the Employer's Renewed Motion to Dismiss at 4; Employer's Renewed Motion to Dismiss at 2; Employer's Motion to Dismiss at 2-3. Nor has Employer pointed to any evidence that contradicts these statements. Employer's Brief at 13. As such, the ALJ reasonably credited Claimant's uncontradicted statements that he last worked in coal mine employment in Virginia, and thus properly applied the law of the United States Court of Appeals for the Fourth Circuit. *See Westmoreland Coal Co. v. Stallard*, 876 F.3d 663, 670 (4th Cir. 2017) (ALJ evaluates the credibility of the evidence of record, including witness testimony); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-155 (1989) (en banc); *see also Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc).

Because the law of the Fourth Circuit applies, we reject Employer's argument that the ALJ should have determined Claimant worked for A&G Coal for at least 125 days, based on the formula at 20 C.F.R. §725.101(32)(iii), and therefore employed Claimant as a miner for at least one year. Employer's Brief at 10, citing *Shepherd v. Incoal, Inc.*, 915 F.3d 392 (6th Cir. 2019). Rather, as the Director argues, under the law of the Fourth Circuit, "one year of employment means 'one calendar year during which the miner regularly worked for . . . a minimum of 125 work days.'"[6] Director's Response Brief at 5, citing *Armco, Inc. v. Martin*, 277 F.3d 468, 474-75 (4th Cir. 2002). As the only evidence is that Claimant worked for A&G Coal from April 2014 to February 2015, Director's Exhibits 3, 5, it did not employ him for at least one year. 20 C.F.R. §725.495(c); *Martin*, 277 F.3d at 474-75.

Finally, Employer argues the ALJ failed to "take steps to fully develop [the] record," and the available evidence is contradictory as to when Claimant worked for A&G Coal.[7]

[6] Nor, as Employer argues, was the ALJ "obligated" to use the formula at 20 C.F.R. §725.101(32)(iii), as this provision sets forth an optional formula that an ALJ "may" use for calculating the length of coal mine employment using a miner's earnings. 20 C.F.R. §725.101(32)(iii); Employer's Brief at 11-12.

[7] Claimant repeatedly stated he worked for A&G Coal from April 2014 to February 2015. Director's Exhibits 3, 5. However, his Social Security Administration (SSA) Earnings Records reflect income from Revelation from 2014 to 2015 and for A&G Coal from 2015 to 2016. Director's Exhibit 16. Similarly, his paystubs reflect employment with

Employer's Brief at 8-13. Employer therefore contends that remand is necessary for the ALJ to either determine the length of Claimant's employment with A&G Coal, "find insufficient evidence exists on the issues," or order Claimant to testify on the issue.[8] *Id*. However, we agree with the Director's position that remand is not necessary. Director's Response at 4-6.

It is Employer's burden to establish that either it is financially incapable of assuming liability for benefits or another potentially liable operator that is financially capable of assuming liability more recently employed the miner for at least one year. 20 C.F.R. §725.495(c)(2); *Mullins*, 842 F.3d at 282. As Employer does not argue that it is financially incapable of assuming liability, it was required to establish that Claimant's employment with A&G Coal lasted for at least one year. *Id*. As discussed above, we have already rejected Employer's argument that Claimant worked for A&G Coal for at least one year because it cannot establish a calendar year of employment. *Supra* at 3. Employer thus cannot establish it is not the responsible operator that most recently employed Claimant for at least one year as a coal miner. 20 C.F.R. §725.495(c)(2); *Mullins*, 842 F.3d at 282. We therefore affirm the ALJ's determination that Employer is the properly designated responsible operator. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (appellant must explain how the "error to which [it] points could have made any difference"); *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

Constitutionality of the Section 411(c)(4) Presumption

Citing *Texas v. United States*, 340 F. Supp. 3d 579, *decision stayed pending appeal*, 352 F. Supp. 3d 665, 690 (N.D. Tex. 2018), Employer contends the Affordable Care Act (ACA), which reinstated the Section 411(c)(4) presumption, Pub. L. No. 111-148, §1556 (2010), is unconstitutional. Employer's Brief at 24. Employer's arguments with respect to the constitutionality of the ACA and the severability of its amendments to the Black

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Revelation from 2014 to 2015, and he repeatedly stated he retired in 2016. Director's Exhibits 1, 14, 30.

[8] Although Claimant did not appear at the hearing, the ALJ declined to dismiss the case as abandoned, because Claimant's lay representative attended the hearing to present evidence and argument and Employer had twenty-one months prior to the hearing to take deposition testimony of Claimant. Decision and Order at 3-4. Employer states that "[w]hether the claim should be dismissed was not adequately resolved by the ALJ." Employer's Brief at 11 n.3. As Employer has offered no explanation or argument to support this assertion, we decline to address this issue, as it is inadequately briefed. *See* 20 C.F.R. §802.211(b); *Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th Cir. 1986).

Lung Benefits Act are now moot. *See California v. Texas*, 593 U.S. ___, 141 S. Ct. 2104, 2120 (2021).

Rebuttal of the Section 411(c)(4) Presumption

Because Claimant invoked the Section 411(c)(4) presumption of total disability due to pneumoconiosis, the burden shifted to Employer to establish the Miner has neither legal nor clinical pneumoconiosis,[9] or that "no part of [his] respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(1)(i), (ii). The ALJ found Employer failed to establish rebuttal by either method.[10]

Legal Pneumoconiosis

To disprove legal pneumoconiosis, Employer must establish Claimant does not have a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §§718.201(a)(2), (b), 718.305(d)(1)(i)(A); *see Minich v. Keystone Coal Mining Co*., 25 BLR 1-149, 1-155 n.8 (2015).

In evaluating whether Employer rebutted the existence of legal pneumoconiosis, the ALJ considered the medical opinions of Drs. Green and Dahhan. Decision and Order at 11-12. Dr. Green opined Claimant suffers from legal coal worker's pneumoconiosis in the form of chronic obstructive pulmonary disease (COPD) due to coal mine dust exposure and cigarette smoking. Director's Exhibits 28, 36. Conversely, Dr. Dahhan opined that Claimant does not have legal pneumoconiosis, but instead has COPD due to cigarette smoking. Director's Exhibit 30; Employer's Exhibit 2. The ALJ found Dr. Dahhan's opinion internally inconsistent and afforded Dr. Green's opinion greater weight. Decision and Order at 11.

[9] "Legal pneumoconiosis" includes any chronic lung disease or impairment and its sequelae arising out of coal mine employment. 20 C.F.R. §718.201(a)(2). "Clinical pneumoconiosis" consists of "those diseases recognized by the medical community as pneumoconioses, i.e., the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1).

[10] The ALJ found Employer rebutted the presumption that Claimant suffers from clinical pneumoconiosis. Decision and Order at 10.

Employer asserts the ALJ did not adequately explain her determination that it did not rebut legal pneumoconiosis. Employer's Brief at 13-16. We agree.

The ALJ rejected Dr. Dahhan's opinion that Claimant's COPD is not legal pneumoconiosis, finding his opinion that there was no evidence of legal pneumoconiosis contradictory to his diagnosis of an obstructive impairment. Decision and Order at 11. However, the mere existence of an obstructive impairment alone does not mean a claimant suffers from legal pneumoconiosis; the cause of the impairment still must be considered. And while it is presumed Claimant's COPD is legal pneumoconiosis, it is a presumption that Employer may rebut through evidence that Claimant's chronic lung disease is not "significantly related to, or substantially aggravated by" coal mine dust exposure. *See Minich*, 25 BLR at 1-155 n.8.

Here, Dr. Dahhan opined that Claimant's COPD is due solely to cigarette smoking and therefore not legal pneumoconiosis. Director's Exhibit 30; Employer's Exhibit 2. He relied in part on his belief that Claimant's impairment is too severe to have been caused by coal mine dust exposure alone, while his smoking history was sufficient to cause the whole of his impairment. Director's Exhibit 30; Employer's Exhibit 2. He further opined Claimant's coal mine employment would not be "considered as being heavy or significantly injurious to the respiratory system" as it was on the surface and he "did not operate a drill" but instead loaded coal and rock. Employer's Exhibit 2. Finally, he opined that Claimant's significant response to the administration of bronchodilators is consistent with cigarette smoking and not coal mine dust exposure. Director's Exhibit 30; Employer's Exhibit 2.

Because the ALJ completely failed to weigh his explanations for excluding legal pneumoconiosis, she failed to address relevant evidence and we therefore must vacate her findings assigning his opinion reduced weight. *See* 30 U.S.C. §923(b) (fact finder must address all relevant evidence); *Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 252-53 (4th Cir. 2016); *McCune v. Cent. Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984) (failure to discuss relevant evidence requires remand); Decision and Order at 11. The Board is not passing judgment on whether Dr. Dahhan's rationale is credible. Rather, the point is that the ALJ must consider it in the first instance and render her own credibility findings. *See Island Creek Coal Co. v. Compton*, 211 F.3d 203, 211 (4th Cir. 2000) ("it is the province of the ALJ to evaluate the physicians' opinions"); *Director, Office of Workers' Compensation Programs v. Rowe*, 710 F.2d 251, 255 (6th Cir. 1983) (Board must remand when ALJ fails to make necessary factual findings).

We further agree that the ALJ failed to adequately address Claimant's cigarette smoking history when weighing the conflicting opinions on the issue of legal pneumoconiosis. Employer's Brief at 17.

In attributing Claimant's COPD to both his cigarette smoking and coal mine dust exposure, Dr. Green relied on a smoking history of one pack a day from 1986 to 2012. Director's Exhibits 28, 36. Dr. Green reasoned that it was not possible to distinguish the effects of Claimant's twenty-five year history of smoking and thirty-four year history of coal mine dust exposure. *Id.* However, Dr. Dahhan recorded Claimant's reported smoking history at half a pack a day beginning in 1981 and opined Claimant's carboxyhemoglobin values in 2017 were consistent with an individual who is actively smoking over two packs a day. Director's Exhibit 30; Employer's Exhibit 2. He opined that he could distinguish the effects of smoking and coal mine dust exposure based in part on Claimant's exposure histories. *Id.*

The ALJ failed to determine Claimant's smoking history, thereby failing to resolve inconsistencies in the record. Consequently, her decision does not comport with the requirements of the Administrative Procedure Act (APA).[11] 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); *see Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989); *Maypray v. Island Creek Coal Co.*, 7 BLR 1-683 (1985) (the length and extent of a miner's smoking history is a factual determination for the ALJ). This finding is necessary for the ALJ to evaluate the credibility of Drs. Green's and Dahhan's opinions on the issue of legal pneumoconiosis insofar as they disagree as to the length of Claimant's smoking history and whether Claimant continued to smoke cigarettes. *Bobick v. Saginaw Mining Co.*, 13 BLR 1-52, 1-54 (1988) (ALJ has discretion in determining the effect of an inaccurate smoking history on the credibility of a medical opinion). Moreover, the ALJ provided no reasoning for her determination that Dr. Green's opinion was entitled to "greater weight." *Wojtowicz*, 12 BLR at 1-165; Decision and Order at 11. Consequently, we vacate the ALJ's decision to assign greater weight to Dr. Green's opinion. Decision and Order at 11.

In view of the foregoing errors, we vacate the ALJ's finding Employer did not disprove legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(A); Decision and Order at 11. Thus, we further vacate the ALJ's finding Employer failed to establish rebuttal at 20 C.F.R. §718.305(d)(1)(i). *Id.*

[11] The Administrative Procedure Act requires that every adjudicatory decision include "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), as incorporated into the Act by 30 U.S.C. §932(a).

Disability Causation

The ALJ next considered whether Employer established "no part of the miner's respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] § 718.201," 20 C.F.R. §718.305(d)(1)(ii), Decision and Order at 11-12. She found Dr. Dahhan's opinion on the issue of disability causation unpersuasive for the same reasons she discredited his opinion on the issue of legal pneumoconiosis. Decision and Order at 12. Consequently, she found Employer failed to rebut the presumption. *Id.*

Employer correctly argues the ALJ's error in analyzing the issue of legal pneumoconiosis carried into her analysis of disability causation. Employer's Brief at 21. Because the ALJ's errors on the issue of legal pneumoconiosis affected her credibility findings on the issue of disability causation, we vacate her finding that Employer failed to prove no part of Claimant's respiratory disability was due to legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii). Thus, we vacate the award of benefits.

Remand Instructions

On remand, the ALJ must first consider all relevant evidence, resolve conflicts in the evidence, and provide definitive findings regarding Claimant's smoking history. *See Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 762 (4th Cir. 1999) ("[T]he 'substantial evidence' standard is tolerant of a wide range of findings on a given record."); *Maypray*, 7 BLR at 1-685.

The ALJ should then reweigh the medical opinion evidence and reconsider whether Employer disproved the existence of legal pneumoconiosis by affirmatively establishing Claimant does not have a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment" by a preponderance of the evidence. 20 C.F.R. §§718.201(a)(2), (b), 718.305(d)(1)(i)(A); *W. Va. CWP Fund v. Director, OWCP* [*Smith*], 880 F.3d 691, 699 (4th Cir. 2018) (rebuttal inquiry is "whether the employer has come forward with affirmative proof that the [miner] does not have legal pneumoconiosis, because his impairment is not in fact significantly related to his years of coal mine employment"); *Minich*, 25 BLR at 1-155 n.8. In doing so, she should address whether the medical opinions addressing legal pneumoconiosis are based on an accurate cigarette smoking history. *Bobick*, 13 BLR at 1-54.

Because the ALJ found Employer disproved the existence of clinical pneumoconiosis, if the ALJ finds Employer has disproved the existence of legal pneumoconiosis, Employer has rebutted the Section 411(c)(4) presumption at 20 C.F.R. §718.305(d)(1)(i), and she need not reach the issue of disability causation. If, however, the ALJ finds Employer failed to rebut the presumption of legal pneumoconiosis and thus failed to establish rebuttal at 20 C.F.R. §718.305(d)(1)(i), she should then address whether

Employer established "no part of the miner's respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] § 718.201." 20 C.F.R. §718.305(d)(1)(ii).

In weighing the medical opinions on both prongs of rebuttal, the ALJ should address the comparative credentials of the physicians, the explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their diagnoses. *See Hicks*, 138 F.3d at 528; *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997). Further, she must consider all the relevant evidence in reaching her determinations. *See McCune*, 6 BLR at 1-998. She must also set forth her findings in detail, including the underlying rationale for her decision as the APA requires. *See Wojtowicz*, 12 BLR at 1-165.

Accordingly, the ALJ's Decision and Order Granting Benefits is affirmed in part, vacated in part, and the case is remanded to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

BUZZARD, Administrative Appeals Judge, concurring.

With respect to my colleagues' decision to affirm the ALJ's responsible operator finding, I concur in the result. For the reasons set forth in *Smith v. Heritage Coal Company*, BRB Nos. 20-0147 BLA and 20-0148 BLA, 2022 WL 2788452, at *17 (June 29, 2022) (unpub.) (Buzzard, J., concurring and dissenting), I believe the Sixth Circuit's interpretation of the regulatory definition of the term "year" can and should be applied to all claims under the Act, including those arising in the Fourth Circuit. *See Shepherd v. Incoal, Inc.*, 915 F.3d 392 (6th Cir. 2019). Such an analysis tends to support Employer's assertion that Claimant had one year of subsequent coal mine employment with another operator. That said, the Board must limit its review to the contentions specifically raised by the parties. *See* 20 C.F.R. §§802.211, 802.301. In that regard, Employer appears to agree with the majority that the Sixth Circuit's *Shepherd* analysis is inconsistent with Fourth Circuit precedent. Employer's Brief at 10. It otherwise sets forth only unconvincing arguments that this case arises in the Sixth Circuit and the record is

underdeveloped as to when Claimant may have worked for a subsequent employer. *Id*. at 8-13.

GREG J. BUZZARD
Administrative Appeals Judge