BRB No. 02-0305 BLA

MARY E. GUMP (Widow of JAMES R. GUMP) Claimant-Respondent v. CONSOLIDATION COAL COMPANY Employer-Petitioner 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 Awarding Benefits of Richard A. Morgan, Administrative Law Judge, United States Department of Labor.

William S. Mattingly (Jackson & Kelly PLLC), Morgantown, West Virginia, for employer.

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

DOLDER, Chief Administrative Appeals Judge:

Employer appeals the Decision and Order on Remand Awarding Benefits (97-BLA-1827) of Administrative Law Judge Richard A. Morgan 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).[1] This case involves a miner's claim,

[1]The Department of Labor has amended the regulations implementing the Federal Coal Mine Health and Safety Act of 1969, as amended. These regulations became effective on January 19, 2001, and are found at 20 C.F.R. Parts 718, 722, 725 and 726 (2002). All citations to the regulations, unless otherwise noted, refer to the amended regulations.

filed on November 21, 1985.[2] In a Decision and Order dated September 6, 1989, Administrative Law Judge Thomas M. Burke credited the miner with forty-seven years of coal mine employment, and considered the claim under the applicable regulations at 20 C.F.R. Part 718 (2000). Judge Burke found the evidence sufficient to establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(4) (2000). Judge Burke also found the miner entitled to the presumption that his pneumoconiosis arose out of coal mine employment pursuant to 20 C.F.R. §718.203(b) (2000), and found the presumption was not rebutted. Judge Burke further determined that the evidence established that the miner was totally disabled pursuant to 20 C.F.R. §718.204(c)(2) and (c)(4) (2000), and that the miner's total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(b) (2000). Accordingly, Judge Burke awarded benefits, and ordered the commencement of benefits as of November 1, 1985, the month in which the claim was filed. Employer appealed.

[2]Claimant, the surviving spouse of the deceased miner who died on May 25, 1992, Director's Exhibit 15, filed a survivor's claim for benefits on June 9, 1992. Director's Exhibit 4. Administrative Law Judge Daniel L. Leland denied the survivor's claim in a Decision and Order dated October 31, 1994. Director's Exhibit 31. The denial of benefits became final when the Board dismissed claimant's appeal on the ground that she failed to submit a timely Petition for Review and brief. *Gump v. Consolidation Coal Co.*, BRB No. 95-0723 BLA (June 28, 1995)(unpublished Order).

The miner died on May 25, 1992, while employer's appeal was pending before the Board. In a Decision and Order dated April 8, 1993, the Board affirmed Judge Burke's award of benefits, but remanded the case for reconsideration on the issue of the date of onset of total disability due to pneumoconiosis. *Gump v. Consolidation Coal Co.*, BRB No. 89-3326 BLA (Apr. 8, 1993)(unpublished). In a Decision and Order on Remand - Awarding Benefits dated September 23, 1993, Judge Burke determined that the evidence established that the miner became totally disabled due to pneumoconiosis at least as of November 23, 1984, the date of an examination by Dr. Kristofic. Judge Burke thus ordered that benefits would commence as of November 1, 1984.[3] By letter to Judge Burke dated October 14, 1993, employer requested reconsideration or, in the alternative, modification of the September 23, 1993 Decision and Order on Remand. In a Decision and Order dated December 16, 1993, Judge Burke denied employer's request, indicating that employer could initiate modification proceedings before the district director.

Employer appealed Judge Burke's Decision and Order to the Board, and the appeal was assigned docket number BRB No. 94-0578 BLA. By letter dated February 8, 1994, while the case was pending before the Board, employer filed a motion for modification and remand to the district director. In an Order dated March 10, 1994, the Board dismissed employer's appeal and remanded the case to the district the director for processing of the modification request. *Gump v. Consolidation Coal Co.*, BRB No. 94-0578 BLA (Mar. 10, 1994)(unpublished Order). The district director obtained new evidence and also included the file from the denied survivor's claim in the record at Director's Exhibit 110, but the district director denied modification. Employer then requested a formal hearing and the case was referred to the Office of Administrative Law Judges. In an Order Denying Modification dated December 2, 1997, Judge Burke decided the case on the record, and found that the newly submitted evidence was insufficient to establish a change in conditions or a mistake in a determination of fact that would warrant modification pursuant to 20 C.F.R. §725.310 (2000). Consequently, modification of the award of benefits was denied. Employer appealed, arguing that Judge Burke erred in failing to conduct a hearing prior to issuing his Order Denying Modification, and arguing that it was denied due process in the long delay in processing the claim at the district director level. Employer also raised several allegations of error with respect to Judge Burke's consideration of the relevant medical opinion evidence on the issue of disability causation under Section 718.204(b) (2000). In a Decision and Order dated December 18, 1998, the Board rejected employer's argument regarding the delay in

[3]In his Decision and Order on Remand dated September 23, 1993, Judge Burke also denied employer's motion, dated July 6, 1993, that the claim be remanded to the district director for modification proceedings. In denying employer's motion, Judge Burke held that the claim had been remanded to him for the limited purpose of reconsidering the date of onset of the miner's total disability due to pneumoconiosis.

processing the claim at the district director level, but agreed with employer that Judge Burke erred in failing to hold a hearing on modification. *Gump v. Consolidation Coal Co.*, BRB Nos. 98-0453 BLA and 94-0578 BLA (Dec. 18, 1998)(unpublished). The Board thus vacated Judge Burke's denial of modification, and remanded the case for the administrative law judge to grant employer's request for a formal hearing and to conduct a *de novo* hearing on the contested issues. *Id*. The Board further held that, because its decision was returning the parties to their position prior to the denial of modification, it did need not address employer's other arguments on appeal, since it would have been premature to do so. *Id*.

On remand, the case was referred to Administrative Law Judge Richard A. Morgan (the administrative law judge), who held a hearing on March 8, 2000. In a Decision and Order Denying Employer's Request for Modification dated April 24, 2000, the administrative law judge accepted employer's stipulation to the existence of pneumoconiosis arising out of coal mine employment and a totally disabling respiratory impairment. The administrative law judge found that employer failed to establish a change in conditions or a mistake in a determination of fact in Judge Burke's findings pursuant to Section 725.310 (2000). The administrative law judge further rejected employer's allegation that the delay in processing its request for modification resulted in a violation of employer's right to due to process. Employer appealed, arguing that the administrative law judge erred in rejecting its due process argument, and improperly weighed the medical evidence of record relevant to the cause of the miner's total disability. The Board affirmed the administrative law judge's determination that employer's right to due to process was not violated in this case. *Gump v. Consolidation Coal Co.*, BRB No. 00-0827 BLA (July 31, 2001)(unpublished). The Board next rejected employer's argument that the administrative law judge should have rejected Dr. Kristofic's medical opinion that the miner's total disability was due to pneumoconiosis because Dr. Kristofic's medical license, at one time, had been suspended. *Id*. The Board also held, however, that the administrative law judge failed to set forth an adequate, independent rationale for finding the medical opinions of Drs. Pinkerton, Gaziano, Silverman, Kristofic and Martin reasoned and documented. *Id*. The Board further held that the administrative law judge improperly discounted the contrary opinions of Drs. Lapp, Fino, Kleinerman, Renn and Naeye, and failed to consider Dr. Morgan's opinion. *Id*. The Board thus vacated the administrative law judge's finding that the evidence established total disability due to pneumoconiosis under Section 718.204(b) (2000), and remanded the case for reconsideration of all of the relevant evidence on the issue.

In his Decision and Order on Remand dated December 12, 2001, the administrative law judge found that Dr. Pinkerton's medical opinion, that the miner was totally disabled due to chronic obstructive pulmonary disease related to coal dust exposure, was entitled to greater weight than the contrary opinions of record and that, therefore, the evidence was sufficient to establish that the miner's total disability was due to pneumoconiosis pursuant to Section

718.204(c).[4] Accordingly, the administrative law judge awarded benefits. On appeal, employer challenges the administrative law judge's disability causation finding under Section 718.204(c). Claimant has not filed a response brief. The Director, Office of Workers' Compensation Programs, has filed a letter indicating he does not presently intend to participate in the proceedings on appeal.

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

[4]The provision pertaining to total disability, previously set out at 20 C.F.R. §718.204(c) (2000), is now found at 20 C.F.R. §718.204(b), while the provision pertaining to disability causation, previously set out at 20 C.F.R. §718.204(b) (2000), is now found at 20 C.F.R. §718.204(c).

In reconsidering the relevant evidence on remand, the administrative law judge credited Dr. Pinkerton's opinion as well-reasoned and documented because Dr. Pinkerton was the miner's treating physician for seven years, and treated the miner on more than twenty occasions from 1985 until the miner's death in 1992. Decision and Order on Remand at 13-14. The administrative law judge also found that Dr. Pinkerton's opinion is consistent with the opinions of Drs. Parkinson, Kristofic, Rhuddy, Martin and Silverman. Decision and Order on Remand at 16. While the administrative law judge did not specifically state that he accorded determinative weight to the opinions of Drs. Parkinson, Kristofic, Rhuddy, Martin and Silverman, he found these opinions to be well-reasoned and documented. *Id*. With regard to the opinions of employer's physicians – Drs. Morgan, Renn, Lapp, Kleinerman, Fino and Naeye – the administrative law judge discounted them because these physicians opined that the miner did not exhibit a totally disabling respiratory impairment prior to developing scleroderma in 1991,[5] while, to the contrary, Drs. Pinkerton, Parkinson, Kristofic, Rhuddy, Martin and Silverman found that the miner clearly suffered from a totally disabling respiratory impairment which was due to pneumoconiosis, as early as 1981, and before developing scleroderma in 1991.

On appeal, employer raises numerous arguments in support of its contentions that the administrative law judge improperly credited the opinion of Dr. Pinkerton, as consistent with

[5]It is undisputed that the miner developed scleroderma. The condition was first diagnosed during the miner's hospitalization in June, 1991. At that time, Dr. La Mata performed a lung biopsy and diagnosed scleroderma. Director's Exhibit 16. In his Decision and Order on Remand, the administrative law judge stated that scleroderma appeared as early as 1987. Decision and Order on Remand at 16. As no specific diagnosis of scleroderma was made prior to 1991, the administrative law judge's statement that scleroderma may have been present as early as 1987 is unexplained. Inasmuch as we herein vacate the administrative law judge's finding under 20 C.F.R. §718.204(c) and are remanding this case for reconsideration of the evidence on that issue, we instruct the administrative law judge to explain his finding that scleroderma may have been present as early as 1987.

the opinions of Drs. Parkinson, Kristofic, Rhuddy, Martin and Silverman, in finding that the miner suffered from a totally disabling respiratory impairment due to pneumoconiosis, and improperly discounted the contrary opinions of Drs. Morgan, Renn, Lapp, Kleinerman, Fino and Naeye, which indicated that the miner's totally disabling respiratory impairment was due to scleroderma unrelated to coal dust exposure.

With respect to the administrative law judge's consideration of Dr. Pinkerton's opinion that the miner was totally disabled due to pulmonary fibrosis arising out of coal mine employment, employer argues that the administrative law judge failed to analyze the medical rationale by which Dr. Pinkerton explained his conclusion. Employer asserts that the administrative law judge erred in not explaining whether Dr. Pinkerton's diagnosis of obstructive lung disease was supported by objective evidence, and in not explaining adequately why he found that Dr. Pinkerton's conclusions as to the role an occupational lung disease may have played in causing pulmonary impairment are persuasive. These contentions are without merit. The administrative law judge correctly stated that Dr. Pinkerton testified that he relied on the miner's occupational and medical histories, and conducted numerous physical examinations, x-rays and objective studies upon which he based his medical opinion that the miner's totally disabling respiratory impairment was due to progressive fibrosis arising out of coal dust exposure. Decision and Order on Remand at 11, 13, 16; Director's Exhibits 16, 58, 110, 1994 Deposition Tr. at 50-51. The administrative law judge also correctly stated that Dr. Pinkerton testified in his deposition on March 16, 1994 that he treated the miner from 1985 until the miner's death in 1992, that he saw the miner approximately every three to six months during this period, and that the miner was always tachypneic and dyspneic, and exhibited chest abnormalities on examination. Decision and Order at 13; Director's Exhibit 110, 1994 Deposition Tr. at 59. The administrative law judge properly found that Dr. Pinkerton's opinion, that the miner suffered from a totally disabling respiratory impairment related to coal dust exposure prior to developing scleroderma, was supported by the objective evidence of record. Decision and Order on Remand at 10-11. The administrative law judge correctly stated that, notwithstanding the fact that all of the pulmonary function studies of record are non-qualifying for total disability, Director's Exhibits 16, 17, 37, 110, the record contains five arterial blood gas studies producing qualifying results, administered in 1984, 1986 and 1987, prior to the miner's development of scleroderma. *Id*.; Director's Exhibits 22, 24, 110. Accordingly, contrary to employer's contention, the administrative law judge properly found Dr. Pinkerton's opinion to be well reasoned and documented. *See Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Tackett v. Cargo Mining Co.*, 12 BLR 1-11 (1988)(*en banc*).

Employer also contends that the administrative law judge was inconsistent in crediting on the one hand, Dr. Pinkerton's opinion, which employer characterizes as an opinion indicating that scleroderma was caused by coal dust exposure, while on the other hand, finding that the evidence failed to establish a causal relationship between scleroderma and

coal dust exposure. We disagree. The administrative law judge correctly stated that Dr. Pinkerton did not say that scleroderma was "caused" by coal mine dust exposure, but rather that it was highly likely that scleroderma triggered an immune response causing progressive fibrosis. Decision and Order on Remand at 11; Director's Exhibit 110, 1994 Deposition Tr. at 37-38.

Employer further argues that the administrative law judge failed to comply with the Board's previous remand instruction to explain the import that he attached to the fact that Dr. Pinkerton deferred to Dr. Lapp's expertise in the area of coal mine dust related lung diseases. This contention lacks merit. The administrative law judge rationally found that Dr. Pinkerton's testimony in his 1994 deposition that he would "welcome" seeing Dr. Lapp's opinion in this case did not undermine Dr. Pinkerton's opinion, since such a statement was not tantamount to a statement by Dr. Pinkerton that he would *defer* to Dr. Lapp's opinion.[6]

Nonetheless, while we reject employer's specific contentions regarding the administrative law judge's treatment of Dr. Pinkerton's opinion, we are unable to affirm the administrative law judge's finding that the evidence established disability causation under Section 718.204(c). For reasons that follow, we vacate the administrative law judge's finding under Section 718.204(c), and remand the case for reconsideration of the evidence thereunder.

We agree with employer that it is unclear exactly what weight the administrative law judge attributed to the competing physicians' opinions. Employer cites the following passage from page 16 of the administrative law judge's Decision and Order on Remand in support of its contention that the administrative law judge failed to weigh the conflicting evidence in a clear manner:

> ...The opinions of Drs. Pinkerton, Parkinson, Martin, Gainer[] and Gaziano are essentially consistent with one[]another. The opinions of Drs. Kleinerman, Renn, Naeye, Morgan, Fino and Lapp. [sic]. For the reasons above, among others highlighted herein, I find their opinions both reasoned and documented.

Decision and Order on Remand at 16. As employer suggests, it is unclear what the administrative law judge determined herein. When an administrative law judge does not

[6]The administrative law judge correctly stated that Dr. Pinkerton did not testify that he would "defer" to Dr. Lapp's opinion, as employer asserted. Decision and Order on Remand at 13, n. 30. At his deposition on March 16, 1994, employer's counsel asked Dr. Pinkerton, "Would you recognize [Drs. Morgan and Lapp] as experts?" Dr. Pinkerton replied, "Yes, I would. I don't know Dr. Morgan personally, but I would certainly welcome Dr. Lapp's opinion in this matter." 1994 Deposition Tr. at 38.

make necessary findings, the proper course for the Board is to remand the case to the administrative law judge rather than attempting to fill in the gaps in the administrative law judge's opinion. *See Director, OWCP v. Rowe*, 710 F.2d 251, 5 BLR 2-99 (6th Cir. 1983).

Additionally, employer argues that the administrative law judge failed to adequately discuss the analysis which Drs. Lapp, Kleinerman, Renn, Fino, Naeye and Morgan provided for their opinions indicating that the miner did not have a disabling pulmonary or respiratory impairment prior to developing scleroderma. Employer contends that the administrative law judge thus failed to provide a reasoned or rational basis upon which to credit Dr. Pinkerton's opinion over the opinions of these physicians. We agree with employer that the administrative law judge improperly discounted the opinions of Drs. Lapp, Kleinerman, Renn, Fino, Naeye and Morgan on the basis that the physicians found the miner was not disabled prior to developing scleroderma, and because the physicians did not opine, in their opinions that pre-date 1991, *i.e.*, before a biopsy diagnosis of coal workers' pneumoconiosis was made, that the miner had any chronic obstructive pulmonary disease arising out of coal mine employment. Employer is correct that the administrative law judge discounted the opinions of Drs. Lapp, Kleinerman, Renn, Fino, Naeye and Morgan on these two grounds without adequately discussing the physicians' explanations as to why the objective evidence of record supported their medical conclusions. Employer's suggestion that the administrative law judge substituted his medical opinion for the experts' opinions also appears valid in light of the administrative law judge's statement that he was skeptical that a physician could, as Drs. Kleinerman, Renn and Lapp indicated, distinguish between pulmonary fibrosis caused by scleroderma and that caused by coal dust exposure. *See Casella v. Kaiser Steel Corp.*, 9 BLR 1-131 (1986); Decision and Order on Remand at 12.

Employer also argues that the administrative law judge erred in failing to analyze the rationale of Drs. Kristofic, Rhuddy, Martin and Silverman, whose opinions are supportive of a finding that the miner's total disability was due to pneumoconiosis. This contention has merit. While the administrative law judge correctly took note of the documentation upon which these doctors relied in reaching their opinions, and thus found the opinions to be well documented, the administrative law judge did not discuss whether the physicians' explanations for their conclusions were well-explained, other than to find the opinions to be consistent with one another and the fact that the miner was a non-smoker with forty-seven years of coal mine employment. Decision and Order on Remand at 16. Thus, the administrative law judge did not make adequate findings as to why the opinions of these physicians were well reasoned. *See Clark, supra; Tackett, supra*.

Employer also argues that the administrative law judge selectively analyzed the evidence because he required employer's physicians to discuss all of the miner's respiratory afflictions, but then stated that "the fact that several...physicians [supporting claimant's position] did not consider the effects of scleroderma is unimportant." Decision and Order on

Remand at 13. On remand, the administrative law judge must analyze the underlying documentation and reasoning of each of the differing medical opinions of record applying the same level of scrutiny to each opinion.

Finally, employer argues that the administrative law judge failed to adequately consider the qualifications of Drs. Kleinerman, Renn, Fino, Morgan and Lapp, who are Board-certified pulmonary specialists. This contention has merit. In weighing the qualifications of the physicians of record, the administrative law judge simply stated:

> Because of their various Board-certifications, B-reader status, and expertise...I rank Drs. Gaziano, Martin, Pinkerton, Parkinson, Kleinerman, Renn, Fino, Naeye, Morgan, and Lapp more or less equally. Dr. Parkinson had specialized experience treating miners and training in epidemiology.

Decision and Order on Remand at 14. As employer contends, the administrative law judge did not adequately consider the physicians' qualifications inasmuch as he failed to provide a rationale for finding the credentials of Drs. Martin, Pinkerton and Parkinson, who are not Board-certified pulmonary specialists,[7] "more or less equal" to the credentials of Drs. Kleinerman, Renn, Fino, Morgan and Lapp, who are Board-certified pulmonary specialists. Decision and Order on Remand at 14; Director's Exhibits 54, 100, 110. Accordingly, the administrative law judge must further explain his findings with regard to the relative qualifications of the physicians, providing a thorough discussion of the relative credentials of the physicians of record and a reasoned explanation for the weight he accords the various credentials. *See Roberts v. Bethlehem Mines Corp.*, 8 BLR 1-211 (1985).

In light of the foregoing, we vacate the administrative law judge's finding that claimant established that pneumoconiosis was a substantially contributing cause of the miner's total disability pursuant to 20 C.F.R. §718.204(c), *see Bonessa v. United States Steel Corp.*, 884 F.2d 726, 13 BLR 2-23 (3d Cir. 1989), and remand the case for the administrative law judge to reconsider whether employer has established a mistake in a determination of fact with respect to this issue pursuant to Section 725.310 (2000).[8] *See* 20 C.F.R. §725.310 (2000). On remand, the administrative law judge must weigh all relevant evidence, set forth his findings in detail, and set forth the underlying rationale for his findings.

[7]Drs. Pinkerton and Martin are Board-certified in internal medicine and geriatric medicine. Director's Exhibits 21, 110, 1994 Deposition Tr. at 2-4. Dr. Parkinson is Board-certified in occupational medicine. Director's Exhibit 110.

[8]The amendments to the regulation at 20 C.F.R. §725.310 (2000) do not apply to claims, such as the instant claim, which were pending on January 19, 2001. *See* 20 C.F.R. §725.2, 65 Fed. Reg. 80,057.

Accordingly, the administrative law judge's Decision and Order on Remand Awarding Benefits is vacated, and the case is remanded for further consideration consistent with this opinion.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

I concur:

ROY P. SMITH
Administrative Appeals Judge

McGRANERY, Administrative Appeals Judge, dissenting:

I respectfully dissent from the majority's decision to vacate the administrative law judge's decision awarding benefits and to remand the case for further consideration. I believe that the administrative law judge has provided a thorough, logical analysis of the relevant evidence in his Decision and Order on Remand Awarding Benefits and I would

affirm his decision. I reject employer's argument that the administrative law judge erred in crediting the opinions of Drs. Pinkerton, Parkinson, Kristofic, Martin, Gaziano and Silverman, that the miner was totally disabled due to coal dust exposure by 1987, over the contrary opinions of Drs. Kleinerman, Renn, Naeye, Morgan, Fino and Lapp. First, the administrative law judge reasonably credited the testimony of the "non-smoking miner [that he] retired from coal mining in 1984 [after forty-seven years' coal mine employment] because he could no longer work due to breathing problems." Decision and Order on Remand at 10. Second, the administrative law judge found significant the miner's five qualifying blood gas studies performed between 1984 and 1987. Third, the administrative law judge gave greater weight to the opinion of Dr. Pinkerton, who is Board-certified in internal medicine and was the miner's treating physician from 1985 until the miner's death in 1992. The instant case arises within the jurisdiction of the United States Court of Appeals for the Third Circuit, which declared in *Mancia v. Director, OWCP*, 130 F.3d 579, 591, 21 BLR 2-215, 2-238 (3d Cir. 1997): "the opinion of a miner's treating physician 'play[s] a major role in the determination of eligibility for black lung benefits.' *Schaaf v. Matthews*, 574 F.2d 157 (3d Cir. 1978)."

Dr. Pinkerton had examined the miner every three to six months, on over twenty occasions. The doctor also had the benefit of his former partner's office notes of prior treatment, as well as the reports of Drs. Fino and Naeye, reviewing physicians. Dr. Pinkerton observed that the miner was always out of breath on minimal exertion. The miner was first hospitalized for progressive dyspnea in 1981. Dr. Pinkerton diagnosed disabling, occupationally related, lung disease. The credible testimony of the miner, his qualifying blood gas studies and evidence provided by his treating physician established that the miner had a totally disabling respiratory impairment by 1987, four years prior to his diagnosis of scleroderma. That rational credibility determination, entirely within the administrative law judge's discretion, is sufficient for the administrative law judge to reject the opinions of Drs. Renn, Naeye, Kleinerman, Fino, Morgan, and Lapp, all of whom – eventually – diagnosed coalworkers' pneumoconiosis, but none of whom found the miner totally disabled before 1991. In contrast, based upon an examination and testing in 1984, Dr. Kristofic opined that the miner was totally disabled due to coalworkers' pneumoconiosis. And, in a 1986 report, Dr. Martin related the miner's qualifying blood gas studies to chronic obstructive pulmonary disease, which the doctor determined was aggravated by coal dust exposure. Similarly, in 1987, Dr. Silverman diagnosed claimant as totally disabled due to anthracosilicosis caused by coal dust exposure. Because the administrative law judge rationally concluded that the evidence showed that the miner was totally disabled in 1987, he logically rejected the contrary opinions. It was not necessary for him to analyze the explanations for these opinions because the evidence proved the opinions were simply wrong. Similarly, it was entirely unnecessary for the administrative law judge to undertake a comparative study of the doctors' credentials when the evidence of the miner's condition proved which opinions were right and which were wrong. Since the evidence established that the miner was totally

disabled by pneumoconiosis in 1987, four years prior to his first diagnosis of scleroderma, the administrative law judge was entirely reasonable in stating: "the fact that several...physicians [supporting claimant's position] did not consider the effects of scleroderma is unimportant." Decision and Order on Remand at 13. The miner's late development of scleroderma was irrelevant to the issue of whether the miner was totally disabled due to pneumoconiosis four years earlier.

In his Decision and Order on Remand Awarding Benefits, the administrative law judge rationally analyzed the relevant evidence and made appropriate credibility determinations which provide substantial support for his conclusion that the miner was totally disabled due to pneumoconiosis in 1987, four years prior to his diagnosis with scleroderma, when employer's doctors found him to be disabled. In its decision to remand the case to reconsider the medical opinion evidence, the majority has exceeded the Board's statutory authority by failing to give adequate deference to the administrative law judge in his credibility determinations. *See Clites v. J & L Steel Corp.*, 663 F.2d 14, 3 BLR 2-86 (3d Cir. 1981).

REGINA C. McGRANERY
Administrative Appeals Judge