BRB No. 04-0361 BLA

CATHERINE D. BARTLEY (Widow of ARNOLD BARTLEY)	)	
Claimant-Respondent	)	
v.	)	
UNION CARBIDE CORPORATION	)	DATE ISSUED: 01/27/2005
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 Robert J. Lesnick, Administrative Law Judge, United States Department of Labor.

Roger D. Foreman (Foreman & Huber, LC), Charleston, West Virginia, for claimant.

Dorothea J. Clark (Jackson Kelly PLLC), Morgantown, West Virginia, for employer.

Rita Roppolo (Howard M. Radzely, Solicitor of Labor; Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer appeals the Decision and Order - Awarding Benefits (01-BLA-1008) of

Administrative Law Judge Robert J. Lesnick on a survivor's claim[1] 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). Adjudicating the claim pursuant to 20 C.F.R. Part 718, the administrative law judge credited the miner with "at least" twenty-eight years of qualifying coal mine employment. The administrative law judge raised *sua sponte* the issue of whether to apply the doctrine of collateral estoppel based on the prior determination in the miner's claim regarding the existence of pneumoconiosis. Inasmuch as all of the requisite elements of issue preclusion were not established, the administrative law judge found that the doctrine of collateral estoppel was inapplicable in this survivor's claim and consequently, addressed the issue of the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a). In so doing, the administrative law judge noted that one method of establishing the existence of pneumoconiosis is set forth in 20 C.F.R. §718.202(a)(3) and, provides that a claimant may establish invocation of the irrebuttable presumption of death due to pneumoconiosis based on a finding that the miner suffered from complicated pneumoconiosis, 30 U.S.C. §921(c)(3), as implemented by 20 C.F.R. §718.304. Consequently, the administrative law judge addressed whether claimant established invocation of the irrebuttable presumption under 20 C.F.R. §718.304. With respect to Section 718.304(a), the administrative law judge found that the x-ray interpretations rendered by Dr. Sargent that indicated large opacities category C were entitled to determinative weight, and hence, sufficient to invoke the irrebuttable presumption of death due to pneumoconiosis under this subsection. Pursuant to Section 718.304(b), the administrative law judge determined that because the biopsy evidence was insufficient to determine the presence or absence of complicated pneumoconiosis in the miner, claimant failed to establish invocation of the irrebuttable presumption under this subsection. Next, the administrative law judge found that the medical opinion of Dr. Gaziano diagnosing the miner with complicated pneumoconiosis outweighed the CT scan evidence and the medical opinions of Drs. Naeye, Oesterling, and Dahhan, all demonstrating an absence of complicated pneumoconiosis. Hence, the administrative law judge determined that claimant established invocation of the irrebuttable presumption of death due to pneumoconiosis pursuant to Section 718.304(c). After weighing all the relevant evidence together, the administrative law judge accorded dispositive weight to the x-ray interpretations of Dr. Sargent, the medical opinion of Dr. Gaziano, and the treatment records of the miner's treating physicians diagnosing complicated pneumoconiosis and, concluded that claimant

[1] Claimant, Catherine D. Bartley, filed a survivor's claim for benefits on September 28, 2000. Director's Exhibit 1. The miner, Arnold Bartley, filed his application for benefits on February 14, 1983 and the district director awarded benefits on May 14, 1984. Director's Exhibits 23-1, 23-12. Subsequently, employer agreed to pay benefits on the miner's claim on May 24, 1984 and, the district director issued an Award of Benefits dated June 13, 1984 and a Supplemental Award dated September 13, 1984. Director's Exhibits 23-16, 23-18, 23-19. The miner died on August 20, 2000. Director's Exhibit 4.

affirmatively established invocation of the irrebuttable presumption of death due to pneumoconiosis provided at Section 718.304. *See* 30 U.S.C. §921(c)(3). Accordingly, benefits were awarded, commencing as of August 1, 2000, the month in which the miner died.

On appeal, employer argues that the administrative law judge erred by failing to rely on the preponderance of the x-ray interpretations, biopsy reports, and CT scan interpretations which demonstrate that the miner did not suffer from complicated pneumoconiosis and that his death was neither caused nor hastened by coal workers' pneumoconiosis. Employer additionally argues that, when finding that claimant was entitled to invocation of the irrebuttable presumption of death due to pneumoconiosis under Section 718.304, the administrative law judge erred by failing to render the requisite equivalency determination as required by *Double B Mining, Inc. v. Blankenship*, 177 F.3d 240, 22 BLR 2-554 (4th Cir. 1999). Claimant responds, urging affirmance of the administrative law judge's award of benefits. The Director, Office of Workers' Compensation Programs (the Director), as party-in-interest, has filed a limited response letter. With respect to the administrative law judge's finding that the doctrine of collateral estoppel was inapplicable, the Director argues that the administrative law judge erred in failing to give preclusive effect to the final decision in the miner's claim awarding benefits on September 13, 1984 that contained a determination that the existence of simple pneumoconiosis was established pursuant to Section 718.202(a). While the Director disagrees with employer's argument that the administrative law judge erred by not granting controlling weight to the negative CT scan evidence, the Director asserts that Dr. Wheeler rendered an opinion that is hostile to the Act, which may have consequently impacted his opinion regarding the CT scan evidence in this case. Hence, the Director contends that, in the event the Board vacates the administrative law judge's Decision and Order, the administrative law judge should be instructed to revisit these issues on remand.

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 the 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 and Grylls Associates, Inc.*, 380 U.S. 359 (1965).

We first address the Director's challenge to the administrative law judge's finding that the prior pneumoconiosis determination in the miner's claim was not binding in this survivor's claim because the doctrine of collateral estoppel[2] is inapplicable. The Director argues that

[2] Collateral estoppel forecloses "the relitigation of issues of fact or law that are identical to issues which have actually been determined and necessarily decided in prior litigation in which the party against whom [issue preclusion] is asserted had a full and fair opportunity to

collateral estoppel applies to the instant claim and that the prior finding of pneumoconiosis in the miner's claim should be accorded preclusive effect in this survivor's claim. The Director contends that the law governing the adjudication of claims, which is set forth in 30 U.S.C. 432(b) of the Act, requires that all relevant evidence must be considered, and therefore, the law has not changed since the miner's claim was adjudicated in 1984. The Director asserts further that the administrative law judge failed to consider that the miner was awarded benefits in 1984, a final decision which employer did not contest, and consequently, would be controlling on subsequent claims concerning identical issues.

In *Collins v. Pond Creek Mining Co.*, 22 BLR 1-229 (2003), the Board held that, in a survivor's claim where no autopsy evidence was obtained and entitlement to benefits was established in the living miner's claim, the doctrine of collateral estoppel is not applicable to preclude litigation of the issue of the existence of pneumoconiosis because the decision in *Compton v. Island Creek Coal Co.*, 211 F.3d 203, 22 BLR 2-162 (4th Cir. 2000), constituted a change in the law with respect to the standard for establishing the existence of pneumoconiosis under Section 718.202(a), therefore, a difference in the substantive legal standards applicable to the two proceedings exists. *Collins*, 22 BLR at 1-232-233; *accord Howard v. Valley Camp Coal Co.*, No. 03-1706 (4th Cir. Apr. 14, 2003) (unpub.). The administrative law judge discussed the pertinent case law and properly found that the doctrine of collateral estoppel was not applicable to the instant case which, like *Collins*,

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litigate." *Hughes v. Clinchfield Coal Co.*, 21 BLR 1-134, 1-137 (1999) (*en banc*), *citing Ramsey v. INS*, 14 F.3d 206 (4th Cir. 1994).

To successfully invoke the doctrine of collateral estoppel, in this case which arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit, the party asserting it must establish the following criteria:

> (1) the issue sought to be precluded is identical to the one previously litigated;
> (2) the precise issue raised in the present case must have been raised and actually litigated in the prior proceeding;
> (3) determination of the issue must have been necessary to the outcome of the prior determination;
> (4) the prior proceeding must have resulted in a final judgment on the merits; and
> (5) the party against whom estoppel is sought must have had a full and fair opportunity to litigate the issue in the prior proceeding.

See Sedlack v. Braswell Services Group, Inc., 134 F.3d 219 (4th Cir. 1998); *Collins v. Pond Creek Mining Co.*, 22 BLR 1-229, 1-232-233 n.2 (2003); *Hughes v. Clinchfield Coal Co.*, 21 BLR 1-134 (1999) (*en banc*).

arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit, because the holding in *Compton* constituted a change in the law with respect to the issue of the existence of pneumoconiosis pursuant to Section 718.202(a). Consequently, because the issue of whether the existence of pneumoconiosis was established in the survivor's claim was not identical to the one previously litigated and actually determined in the miner's claim, the administrative law judge properly concluded that the doctrine of collateral estoppel is inapplicable to the instant case. *See Collins*, 22 BLR at 1-232; *see generally Hughes v. Clinchfield Coal Co.*, 21 BLR 1-134 (1999) (*en banc*); *cf. Zeigler Coal Co. v. Director, OWCP* [*Villain*], 312 F.3d 332, 22 BLR 2-581 (7th Cir. 2002) (employer was collaterally estopped from relitigating issue of existence of pneumoconiosis in survivor's claim where miner was awarded lifetime benefits and no autopsy evidence presented). Because we affirm the administrative law judge's finding that the finding of pneumoconiosis in the miner's claim cannot be accorded preclusive effect in this survivor's claim, we reject the Director argument in this regard.

Next, we turn to employer's challenge of the administrative law judge's findings that claimant established invocation of the irrebuttable presumption of death due to pneumoconiosis pursuant to Section 718.304(a)-(c). Relevant to Section 718.304(a), employer argues that the administrative law judge erred by failing to rely on the preponderance of the x-ray evidence, consisting of seven out of ten x-ray interpretations of record read by physicians who possess the dual qualifications of Board-certified radiologist and B-reader, affirmatively demonstrating that the masses identified in the miner's lungs were compatible with tuberculosis or histoplasmosis and not complicated pneumoconiosis. In particular, employer argues that the administrative law judge erred in according less weight to the x-ray interpretations of Drs. Wheeler, Scott, and Kim, radiologists who possess demonstrated radiological expertise, because these physicians had the benefit of reviewing x-rays and CT scan evidence together in a series when rendering their opinions that the miner did not suffer from complicated pneumoconiosis.

Although employer's contention that the administrative law judge was compelled to rely on the numerical superiority of the x-ray interpretations finding an absence of complicated pneumoconiosis lacks merit, *see Adkins v. Director, OWCP*, 958 F.2d 49, 16 BLR 2-61 (4th Cir. 1992), employer's argument that the administrative law judge erred in analyzing the physicians' opinions relevant to the x-ray interpretations has merit. The administrative law judge discounted Dr. Wheeler's x-ray interpretations because he concluded that a finding of compatibility with tuberculosis or histoplasmosis "does not negate its compatibility with complicated pneumoconiosis." Decision and Order at 19. However, the administrative law judge rendered this finding absent any medical foundation in the record. Consequently, this determination was improper as the administrative law judge was substituting his opinion for that of the medical expert, which he cannot do. *See Amax Coal Co. v. Director, OWCP* [*Rehmel*], 993 F.2d 600, 17 BLR 2-91 (7th Cir. 1993); *Amax*

Coal Co. v. Beasley, 957 F.2d 324, 16 BLR 2-45 (7th Cir. 1992); *Wetherill v. Director, OWCP*, 812 F.2d 376, 9 BLR 2-239 (7th Cir. 1987); *Kertesz v. Crescent Hills Coal Co.*, 788 F.2d 158, 9 BLR 2-1 (3d Cir. 1986); Decision and Order at 19. Further, the administrative law judge appears to have selectively analyzed the evidence. While he acknowledged Dr. Wheeler's testimony that large opacities accompanied by an absence of background nodules may exist, the administrative law judge failed to consider how Dr. Wheeler emphasized that this is "very rare," a situation seen "maybe once a decade," and one that Dr. Wheeler himself had only seen once or twice in the entire span of his career. *See Justice v. Island Creek Coal Co.*, 11 BLR 1-91 (1988); *Hess v. Clinchfield Coal Co.*, 7 BLR 1-295 (1984); Decision and Order at 19; Employer's Exhibit 6 at 32-33. Similarly, the administrative law judge's determination that Dr. Wheeler's statement that "mass lesions of conglomerate granulomatous disease and the large opacities of pneumoconiosis can look radiographically identical" undermined his ultimate conclusion was not reasonable. Dr. Wheeler opined that the mass lesions found in this miner's upper lobes were not progressive massive fibrosis because the lesions were, instead, demonstrative of calcified granulomatas that contained calcium, and therefore, were more characteristic of conglomerate tuberculosis or histoplasmosis. Employer's Exhibit 6 at 32. Notwithstanding Dr. Wheeler's general statement that mass lesions of conglomerate granulomatous disease and the large opacities of pneumoconiosis may look similar on an x-ray, Dr. Wheeler fully explained why he believed that the miner's lung abnormalities in this case were attributable to conglomerate granulomatous disease. Further, the administrative law judge erred in rejecting the x-ray readings of Drs. Scott and Kim on the basis that these physicians, like Dr. Wheeler, found an absence of complicated pneumoconiosis due to lack of background nodules and on the basis that their lack of knowledge concerning the miner's coal mine employment history undermined their ability to determine the etiology of the abnormalities on x-ray. *See generally Bobick v. Saginaw Mining Co.*, 13 BLR 1-52, 1-55 (1988); *Alley v. Riley Hall Coal Co.*, 6 BLR 1-376, 1-377 (1983); Decision and Order at 20. Accordingly, we vacate the administrative law judge's finding at Section 718.304(a) and remand the case for the administrative law judge to provide a complete discussion of his evaluation of the x-ray evidence, including a discussion of how he resolves the conflicts in the x-ray evidence. *See Lane Hollow Coal Co. v. Director, OWCP* [*Lockhart*], 137 F.3d 799, 803, 21 BLR 2-302, 2-311 (4th Cir. 1998); *Barren Creek Coal Co. v. Witmer*, 111 F.3d 352, 354, 21 BLR 2-83, 2-87 (3d Cir. 1997); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162 (1989).

Employer also argues that the administrative law judge erred in crediting the x-ray interpretations of Dr. Sargent, who diagnosed pneumoconiosis and large opacities category C, on the basis that these x-ray readings were consistent with the miner's occupational history. Employer contends that because the comments section contained in Dr. Sargent's x-ray interpretations of films dated April 26, 2000 and June 28, 2000 contain equivocal statements such as "smoking history??" and "compare to old films if available correlate clinically," these comments render his diagnoses contained in these x-ray reports equivocal or

qualified, and therefore, unreliable. Although a determination whether a physician's opinion is qualified or equivocal is within the province of the administrative law judge, *see Justice*, 11 BLR at 1-94; *Campbell v. Director, OWCP*, 11 BLR 1-16, 1-19 (1987), remarks contained in the comments section of a physician's x-ray report do not necessarily render the x-ray reading unreliable, *see Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 763, 21 BLR 2-587, 2-605 (4th Cir. 1999) ("...a reasoned medical opinion is not rendered a nullity because it acknowledges the limits of reasoned medical opinions."). Consequently, we reject employer's contention that Dr. Sargent's x-ray interpretations are qualified due to the remarks contained in the comments section of these reports.[3] However, we agree with employer's contention that the administrative law judge erred in finding that Dr. Sargent's large opacity findings were supported by the large mass findings by Drs. Wheeler, Scott, and Kim because the latter physicians attributed the masses they found to tuberculosis, histoplasmosis, and a granulomatous process, not to an underlying condition sufficient to constitute complicated pneumoconiosis, as did Dr. Sargent. *See Blankenship*, 177 F.3d at 243-244, 22 BLR at 2-554, 2-561-562. Accordingly, in determining whether claimant has established invocation of the irrebuttable presumption under Section 718.304(a) on remand, the administrative law judge must fully explain his credibility determinations and his weighing of all the relevant evidence. *See Bill Branch Coal Corp. v. Sparks*, 213 F.3d 186, 22 BLR 2-251 (4th Cir. 2000).

Relevant to Section 718.304(b), employer contends that the administrative law judge erred in finding that the biopsy evidence was inadequate to determine whether the miner suffered from complicated pneumoconiosis because the opinions of Drs. Oesterling and Naeye, physicians who reviewed the single tissue slide, clearly revealed an absence of both simple and complicated pneumoconiosis. Employer argues that because Drs. Oesterling and Naeye each concluded that the biopsy slide revealed a benign neoplasm tumor consistent with schwannoma, a process that is totally unrelated to coal mine dust exposure, this conclusion sufficiently precludes a finding of invocation under Section 718.304(b). Furthermore, employer asserts that the administrative law judge's finding, that Dr. Naeye's assessment regarding the biopsy slide was "disingenuous," constitutes a substitution of his opinion for that of Dr. Naeye and hence, was irrational.

[3] Likewise, employer argues that Dr. Sargent's x-ray readings of films taken on June 30, 1983, April 26, 2000, and June 28, 2000 are inconsistent because the classifications of the "small opacities" he found varied between "2/2," "1/0," and "1/2" respectively. Employer's argument lacks merit, however, since when assessing whether "large opacities" were evident, Dr. Sargent consistently diagnosed "large opacities size C" on all three films. Director's Exhibits 11, 13, 14, 23-11. Moreover, a physician's x-ray reading of a particular film is independent of conclusions he/she may reach when reading additional films.

Contrary to employer's contention, however, the administrative law judge properly assessed the medical opinions interpreting the right lung biopsy of the miner's bronchial wall tissue and, permissibly relied on the opinion of Dr. Oesterling, who is Board-certified in anatomic pathology, clinical pathology, and nuclear medicine, and who opined that, due to a lack of additional lung tissue available for histological examination, it was "not totally feasible" to render an opinion concerning the presence of complicated pneumoconiosis. Decision and Order at 20; Employer's Exhibit 4. Noting that the single slide of lung tissue from the biopsy, initially interpreted by Dr. Hamilton on April 22, 1987, contained tumor cells that were later identified as a benign neoplasm consistent with schwannoma,[4] the administrative law judge, within a rational exercise of his discretion, accorded determinative weight to Dr. Oesterling's opinion that "there is no lung available" sufficient to determine whether coal workers' pneumoconiosis or any pulmonary or respiratory disease due to coal dust exposure was present. *See Underwood v. Elkay Mining, Inc*., 105 F.3d 946, 949, 21 BLR 2-23, 2-28 (4th Cir. 1997) (observing that administrative law judge, as trier-of-fact, assesses weight and credibility of evidence); *Zbosnik v. Badger Coal Co.*, 759 F.2d 1187, 1189, 7 BLR 2-202, 2-207 (4th Cir. 1985); *Fagg v. Amax Coal Co.*, 12 BLR 1-77 (1988); *Tackett v. Cargo Mining Co.*,12 BLR 1-11, 1-14 (1988) (*en banc*). While the record does not support the administrative law judge's finding that Dr. Naeye's opinion was "disingenuous," the administrative law judge could reasonably rely on the conclusion of Dr. Oesterling that the tissue needed to render a histological diagnosis of pneumoconiosis was not available, and consequently, that Dr. Naeye's opinion of "no findings in this nodule or elsewhere in the tissues available for review that could be interpreted as evidence of coal workers' pneumoconiosis," was entitled to little probative value. Decision and Order at 21; Employer's Exhibit 2. Accordingly, the administrative law judge's determination that Dr. Naeye's opinion was entitled to little weight in considering the biopsy evidence at Section 718.304 was rational and supported by substantial evidence. *See Lafferty v. Cannelton Industries, Inc.*, 12 BLR 1-190 (1989) (administrative law judge need not accept opinion of any particular medical expert, but must weigh all evidence and draw his/her own conclusions and inferences); Decision and Order at 21. Hence, we reject employer's arguments.

With respect to Section 718.304(c), employer raises several allegations of error with respect to the administrative law judge's weighing of the CT scan and medical opinion evidence and contests the administrative law judge's determination that claimant established invocation of the irrebuttable presumption under this subsection. Employer initially contends that the administrative law judge erred in discounting the CT scan interpretations of Drs. Wheeler, Scott, and Kim, the only physicians of record who reviewed the sole CT scan of record dated June 29, 2000, because there is no contrary evidence of record and "CT scans are 'the best way to detect the presence or absence of any interstitial lung disease'."

[4] *Dorland's llustrated Medical Dictionary*, 25th Ed., defines schwannoma as a neoplasm of a nerve sheath.

Employer's Brief at 22. The Director disagrees with employer, asserting that the administrative law judge was not required to give controlling weight to the CT scan evidence because the premise of employer's argument – that CT scan evidence is a superior diagnostic tool than x-ray evidence for diagnosing pneumoconiosis – is fundamentally flawed.

In analyzing the probative value of the CT scan evidence, the administrative law judge noted the decision in *Consolidation Coal Co. v. Director, OWCP* [*Stein*], 294 F.3d 885, 890, 22 BLR 2-409, 2-417 (7th Cir. 2002), where the court held, "a CT scan is not a magic bullet: Even if a CT scan is negative, the ALJ may conclude from the other medical and scientific testimony available that a miner had legal pneumoconiosis." After critically evaluating the research demonstrating the effectiveness of CT scans in evaluating the presence of occupational lung diseases, the court deferred to the view presently held by the Department of Labor (DOL) and, because the evidence presented to DOL has raised reasonable doubts about the ability of CT scans, standing alone, to rule out the existence of pneumoconiosis, the court "refused to hold that an ALJ in the exercise of her discretion and best judgment must always defer to the results of a CT scan… ." *Stein*, 294 F.3d at 892, 22 BLR at 2-422. Inasmuch as *Stein* is in accord with DOL's refusal to hold that "a negative CT scan is a wildcard that must trump all other evidence," the administrative law judge did not err, contrary to employer's argument, in relying on Seventh Circuit case law. Moreover, the administrative law judge was not compelled to rely on the uncontradicted CT scan reports of Drs. Wheeler, Scott, and Kim. However, employer is correct that the administrative law judge substituted his opinion for those of Drs. Wheeler, Scott, and Kim when he rejected their CT scan interpretations on the basis that the aforementioned physicians found an absence of background nodules, which was contrary to his belief that a lack of background nodules does not preclude a diagnosis of complicated pneumoconiosis. Although the administrative law judge purports to rely on Dr. Wheeler's deposition testimony with respect to the "very rare" cases where complicated pneumoconiosis is diagnosed despite an absence of background nodules, Dr. Wheeler did not testify that that was the condition of the miner's lungs herein. *See Dolzanie v. Director, OWCP*, 6 BLR 1-865, 1-867 (1984) (administrative law judge is prohibited from engaging in medical speculation without foundation in evidence of record); Decision and Order at 21. Accordingly, we must vacate the administrative law judge's weighing of the CT scan evidence under Section 718.304(c) and remand the case for the administrative law judge to reassess the probative value of the CT scan evidence and to render findings accordingly.

With respect to the medical opinion evidence under Section 718.304(c), employer asserts that the administrative law judge erred in relying on the medical opinion of Dr. Gaziano, who diagnosed complicated pneumoconiosis, because Dr. Gaziano's opinion was solely based on his interpretation of a 1983 x-ray film, which the administrative law judge discredited when analyzing the x-ray evidence. Employer also contends that because Dr. Gaziano's opinion is based on limited data, an unexplained diagnosis of complicated

pneumoconiosis, and an incomplete picture of the miner's condition, the administrative law judge erred in crediting this physician's opinion. Employer's argument has merit. The administrative law judge accorded dispositive weight to Dr. Gaziano's 1983 opinion that the miner suffered from "complicated coal workers' pneumoconiosis related to coal dust exposure" because this opinion was based on an x-ray interpretation of the June 30, 1983 film, the miner's 28 years of coal mine employment, physical examination, symptomotology, and medical history, however, Dr. Gaziano did not explain the basis for his conclusion, did not discuss how the objective medical evidence supported his diagnosis, and did not provide any reasoning supporting the diagnosis. Director's Exhibit 23-8. Although the administrative law judge may weigh the medical evidence and draw his own conclusions, *Lane v. Union Carbide Corp*., 105 F.3d 166, 21 BLR 2-34 (4th Cir. 1997); *Zbosnik v. Badger Coal Co.*, 759 F.2d 1187, 1189, 7 BLR 2-202, 2-207 (4th Cir. 1985), the administrative law judge may not ignore the qualifications of the respective physicians, the explanation of their medical opinions, the documentation underlying their medical judgments, and the sophistication and bases of their diagnoses, *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441, 21 BLR 2-269, 2-275 (4th Cir. 1997), and must determine whether a medical opinion contains an adequate explanation for its conclusions. *See Underwood v. Elkay Mining, Inc*., 105 F.3d 946, 951, 21 BLR 2-23, 2-32 (4th Cir. 1997); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989) (*en banc*). Such determinations are matters of consideration for the administrative law judge. Consequently, we vacate the administrative law judge's weighing of Dr. Gaziano's opinion and instruct the administrative law judge to reconsider the medical opinion evidence under Section 718.304(c) on remand.

Likewise, employer argues that the administrative law judge erred in relying on the opinion of Dr. Dillon, the miner's cardiologist, and the opinion of Dr. Quintana, the miner's thoracic surgeon, based on their treating physician status inasmuch as the administrative law judge was not required to mechanically defer to the opinions of treating physicians. Moreover, employer avers that the administrative law judge erred in finding that these physicians' opinions were indicative of complicated pneumoconiosis inasmuch as none of Dr. Dillon's reports contain a diagnosis of complicated pneumoconiosis and Dr. Quintana's opinion that the miner's chest x-rays remained unchanged from previous years and his pulmonary condition demonstrated no evidence of deterioration are inconsistent with a diagnosis of complicated pneumoconiosis. We agree. Although the administrative law judge correctly found that Dr. Dillon, a Board-certified cardiologist who treated the miner for coronary artery disease, noted that the miner's chest x-ray indicated "extensive scarring and plaquing, presumably from working in a coal mine" and diagnosed coal workers' pneumoconiosis, this opinion does not constitute a diagnosis of complicated pneumoconiosis or an underlying condition that is the equivalent diagnostic result of an opacity found on x-ray that would measure greater than one centimeter. *See* 20 C.F.R. §718.304(c); *Eastern Associated Coal Corp. v. Director, OWCP* [*Scarbro*], 220 F.3d 250, 22 BLR 2-93 (4th Cir. 2000); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33 (1991) (*en banc*); Decision

and Order at 22. Similarly, the administrative law judge erred in finding that the opinion of Dr. Quintana, a Board-certified thoracic surgeon who conducted annual evaluations of the miner for "massive pulmonary fibrosis," supported a finding of complicated pneumoconiosis inasmuch as none of his reports contain x-ray evidence of opacities larger than one centimeter, 20 C.F.R. §718.304(a), biopsy or autopsy evidence[5] of a massive lesion, 20 C.F.R. §718.304(b), or an equivalent diagnostic result reached by other means, 20 C.F.R. §718.304(c). *See Double B Mining, Inc. v. Blankenship*, 177 F.3d 240, 243-244, 22 BLR 2-554, 2-561-562 (4th Cir. 1999); *Lester v. Director, OWCP*, 993 F.2d 1143, 17 BLR 2-114 (4th Cir. 1993). Moreover, a review of the report of both Drs. Dillon and Quintana reveals that Dr. Dillon relied solely on physical examinations revealing clear lung fields and stress tests and Dr. Quintana relied solely on physical examinations and his interpretations of chest x-rays, consequently, employer is correct that lack of underlying documentation associated with these opinions may diminish the probative value of these opinions. Accordingly, we vacate the administrative law judge's determination that the opinions of Drs. Dillon and Quintana were supportive of a diagnosis of complicated pneumoconiosis and remand the case for the administrative law judge to reassess the medical opinion evidence. Further, we agree with employer that the administrative law judge erred in discrediting Dr. Naeye's opinion because he "did not render an opinion whether complicated pneumoconiosis was present" because Dr. Naeye opined that the miner did not suffer from even simple coal workers' pneumoconiosis during his lifetime. Additionally, contrary to administrative law judge's determination, Dr. Dahhan's review of the medical records, including the CT scan evidence, contains an adequate discussion of the diagnostic test results and sufficient reasoning for his conclusions that the miner had coal workers' pneumoconiosis that did not result in any pulmonary impairment or in his demise. Decision and Order at 22; Employer's Exhibit 5.

Finally, employer asserts that the administrative law judge erred by failing to render the requisite equivalency analysis before finding that the evidence was sufficient to invoke the irrebuttable presumption under Section 718.304. On remand, the administrative law judge's weighing of the evidence must comport with "the Fourth Circuit's mandate in *Blankenship* that the administrative law judge is bound to perform equivalency determinations to make certain that, regardless of which diagnostic technique is used, the same underlying condition triggers the irrebuttable presumption." *Braenovich v. Cannelton*

[5] In his March 11, 1992 report, Dr. Quintana noted that he performed a bronchoscopy of the miner's lung and "found a 2 mm. in diameter excrescence of the bronchial mucosa with prominent capillary vessels on its surface." He remarked that a biopsy of this bronchial tumor revealed a schwannoma of the bronchus. Director's Exhibit 7. This diagnosis, however, does not constitute a diagnosis of complicated pneumoconiosis. *See* 20 C.F.R. §718.304(b); *Double B Mining, Inc. v. Blankenship*, 177 F.3d 240, 243-244, 22 BLR 2-554, 2-561-562 (4th Cir. 1999); *Lester v. Director, OWCP*, 993 F.2d 1143, 17 BLR 2-114 (4th Cir. 1993).

Industries, Inc./Cypress Amax, 22 BLR 1-236, 1-245 (2003) (Gabauer, J., concurring); *Blankenship*, 177 F.3d at 243, 22 BLR 2-561. The Fourth Circuit has specifically held that evidence under one prong of Section 718.304 can diminish the probative value of evidence under another prong if the two forms conflict; however, a single piece of relevant evidence can support an administrative law judge's finding that the irrebuttable presumption was successfully invoked if that piece of evidence outweighs the conflicting evidence of record. *Scarbro*, 220 F.3d at 256, 22 BLR at 2-101, *citing Lester v. Director, OWCP*, 993 F.2d 1143, 1145, 17 BLR 2-114, 2-117 (4th Cir. 1993). On remand, the administrative law judge must render this requisite equivalency analysis pursuant to Section 718.304(a), (b), and (c) if he finds that the probative, reliable evidence is sufficient to establish that the miner suffered from complicated pneumoconiosis.

Based on the foregoing, therefore, we remand the case for the administrative law judge to conduct a full and comparative weighing of all relevant evidence at Section 718.304(a), (b), and (c). The administrative law judge must determine whether the evidence is sufficient to invoke the irrebuttable presumption at Section 718.304, evaluate whether ample information exists for rendering the requisite equivalency determination, and provide adequate rationale for his findings. *See Wojtowicz*, 12 BLR at 1-165; *Vickery v. Director, OWCP*, 8 BLR 1-430 (1986).

Accordingly, the Decision and Order - Awarding Benefits of the administrative law judge is vacated in part and the case is remanded for proceedings consistent with this opinion.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge