BRB No. 00-0669 BLA

JESSE H. HIGGINS	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
OLD BEN COAL COMPANY	)	DATE ISSUED: _____
	)	
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 (Upon Fourth Remand by the Benefits Review Board) of Robert D. Kaplan, Administrative Law Judge, United States Department of Labor.

Harold B. Culley, Jr. (Culley & Wisemore), Raleigh, Illinois, for claimant.

Laura Metcoff Klaus (Greenberg Traurig LLP), Washington, D.C., for employer.

Dorothy L. Page (Judith E. Kramer, Acting Solicitor of Labor; Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; Richard A. Seid and 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: SMITH and DOLDER, Administrative Appeals Judges, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Employer appeals the Decision and Order (Upon Fourth Remand by the Benefits Review Board) (91-BLA-2515) of Administrative Law Judge Robert D. Kaplan (the

administrative law judge) awarding benefits in a duplicate 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 is before the Board for the fifth time. Most recently, the Board remanded the case for the administrative law judge to determine whether claimant has established a material change in conditions at 20 C.F.R. §725.309(d) (2000) pursuant to *Sahara Coal Co. v. Director, OWCP* [*McNew*], 946 F.2d 554, 15 BLR 2-227 (7th Cir. 1991). The Board also instructed the administrative law judge to redetermine, on the merits of the claim, if reached, whether claimant established the existence of pneumoconiosis based on the medical opinion evidence, and whether the evidence establishes that claimant is totally disabled and that his disability is due to pneumoconiosis. *Higgins v. Old Ben Coal Co.*, BRB No. 98-1016 BLA (Sept. 30, 1999)(unpub.). On remand, the administrative law judge found that claimant established a material change in conditions at 20 C.F.R. §725.309(d) (2000) pursuant to *McNew.* Considering the merits of the claim pursuant to the Board's remand instructions, the administrative law judge further found that claimant established total respiratory or pulmonary disability and that his total disability is due to pneumoconiosis. Accordingly, benefits were awarded.

On appeal, employer challenges the administrative law judge's findings of a material change in conditions under 20 C.F.R. §725.309(d) (2000) and of the existence of pneumoconiosis under 20 C.F.R. §718.202(a)(4) (2000). Employer further alleges error in the administrative law judge's findings of total disability and total disability due to pneumoconiosis. Lastly, employer argues that it should be dismissed as a responsible operator as it cannot receive a fair hearing in this case and thus, its due process right to a fair hearing has been violated. Claimant responds, and seeks affirmance of the decision below. The Director, Office of Workers' Compensation Programs (the Director), responds to employer's due process argument, and contends that employer has not been deprived of its due process rights. Employer has filed a reply brief.

[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 65 Fed. Reg. 80,045-80,107 (2000)(to be codified at 20 C.F.R. Parts 718, 722, 725 and 726). All citations to the regulations, unless otherwise noted, refer to the amended regulations.

Pursuant to a lawsuit challenging revisions to forty-seven of the regulations implementing the Act, the United States District Court for the District of Columbia granted injunctive relief and stayed, for the duration of the lawsuit, all claims pending on appeal before the Board under the Act, except for those in which the Board, after briefing by the parties to the claim, determines that the regulations at issue in the lawsuit will not affect the outcome of the case. *National Mining Association v. Chao*, No. 1:00CV03086 (D.D.C. Feb. 9, 2001)(order granting preliminary injunction). In the present case, the Board established a briefing schedule by order issued on March 2, 2001, to which employer and the Director have responded.[2] Employer and the Director assert that application of the revised regulations to this claim will not alter its outcome. Employer adds, however, that if the Board determines that the revised regulations affect the disposition of this case, the case must be stayed pending the United States District Court's resolution of the lawsuit. Based on the briefs submitted by employer and the Director, and our review, we hold that the disposition of this case is not impacted by the challenged regulations. The amendments to the regulation at 20 C.F.R. §725.309 (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. Further, the cental issue in this case is claimant's entitlement to benefits and the revised regulations do not materially alter the respective burdens of the parties. Therefore, the Board will proceed to adjudicate the merits of this appeal.

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 applicable law, they are binding upon this Board and may not be disturbed. 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).

Employer contends that the administrative law judge's finding of a material change in conditions is contrary to the record and to applicable law. In remanding the case, the Board indicated, "[T]he administrative law judge must provide an analysis of whether claimant established a worsening in his physical condition in compliance with *McNew, supra.*" Board's 1999 Decision and Order at 7. On remand, the administrative law judge rationally explained that the more recent pulmonary function test results establish that claimant's pulmonary condition has materially worsened subsequent to the denial of his prior claim,

[2]Pursuant to the Board's instructions, the failure of a party to submit a brief within 20 days following receipt of the Board's Order issued on March 2, 2001, is construed as a position that the challenged regulations will not affect the outcome of the case.

inasmuch as the May 21, 1991 pulmonary function study produced a lower FEV1/FVC ratio than the October 8, 1990 pulmonary function study. Contrary to employer's contention, the administrative law judge did not substitute his opinion for that of the medical experts. Rather, the administrative law judge, noting that no physician had remarked on the decrease in the FEV1/FVC ratio values, acted within his discretion in finding persuasive claimant's argument that the decline in the FEV1/FVC values evidenced by the most recent pulmonary function test was sufficient to warrant consideration of the instant duplicate claim on its merits. 20 C.F.R. §725.309(d) (2000); *see McNew, supra.* It is within the province of the administrative law judge to weigh the medical evidence. *See generally Blakley v. Amax Coal Co.*, 54 F.3d 1313, 19 BLR 2-192 (7th Cir. 1995). We thus affirm the administrative law judge's finding of a material change in conditions under 20 C.F.R. §725.309(d) (2000).

Employer next contends that the administrative law judge erred in finding that the medical opinion evidence establishes the existence of pneumoconiosis. In its Decision and Order in *Higgins*, the Board instructed the administrative law judge to reconsider the medical opinion evidence in light of *Sahara Coal Company v. Fitts,* 39 F.3d 781, 18 BLR 2-384 (1994)(an administrative law judge's nose count of witnesses was not a rational method of decision making, particularly where one physician's diagnosis of pneumoconiosis relied in part on a positive x-ray interpretation of a film which was subsequently interpreted by more experienced radiologists as negative for pneumoconiosis). On remand, the administrative law judge found that the medical opinion evidence established the existence of occupational pneumoconiosis. 20 C.F.R. §§718.202(a)(4); 718.203. The administrative law judge "discounted" Dr. Tuteur's opinion that claimant has "radiographically significant coal workers' pneumoconiosis" because he relied solely on the x-ray evidence to diagnose pneumoconiosis. Decision and Order on remand at 4-5. He also indicated that "Dr. Kelly's primary reliance on positive x-ray evidence warrants the conclusion that his diagnosis of pneumoconiosis is entitled to somewhat less weight that the opinions of Drs. Rao and Rosecan," whom the administrative law judge found rationally relied on several factors in finding that claimant has pneumoconiosis. *Id.* at 5. Employer argues that the administrative law judge "reinstated his previous finding, relying on different, but no better reasons. He ignored or mischaracterized relevant evidence, rendered an internally inconsistent decision and reversed prior credibility findings without explanation." Employer's Brief at 18.

Employer's contentions lack merit. The administrative law judge properly accorded less weight to Dr. Tuteur's medical opinion because the physician based his diagnosis of pneumoconiosis solely on the x-ray evidence. *See generally Worhach v. Director, OWCP*, 17 BLR 1-105 (1993); *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989). Further, employer's assertion that the administrative law judge ignored the findings of Dr. Tuteur and relied on his diagnosis of "radiographically significant coal workers' pneumoconiosis" to find the existence of pneumoconiosis established under 20 C.F.R. §718.202(a)(4) (2000), is refuted by the record. Decision and Order on remand at 4-6.

Further, the administrative law judge permissibly accorded less weight to, but did not reject, Dr. Kelly's diagnosis of pneumoconiosis because, unlike Drs. Rao and Rosecan who relied on several factors and thereby provided rational bases for their diagnoses of pneumoconiosis, Dr. Kelly primarily relied on the x-ray evidence to diagnose pneumoconiosis. 20 C.F.R. §718.202(a)(4); *see Summers v. Freeman United Coal Mining Co.*, 14 F.3d 1220, 18 BLR 2-105 (7th Cir. 1994).

In this regard, we find no merit in employer's argument that the administrative law judge's crediting of the medical opinions of Drs. Rao and Rosecan cannot be reconciled with *Fitts* and thus cannot be considered probative evidence supportive of a finding that claimant has pneumoconiosis. In *Fitts,* the court stated:

> Of course the fact that Rao and Houser each relied on a questionable piece of evidence - an x-ray they thought positive for pneumoconiosis but more experienced x-ray readers thought negative - did not by itself invalidate their conclusions. When a witness relies for his conclusion on facts A, B and C, and fact A is knocked out, it does not follow that his conclusion must change. It may be that his conclusion would be unchanged as long as two out of the three facts, or even one of the three facts, were true. If this is plain there is no need to ask him to reconsider in light of the altered premise (not-A in place of A); but if it is not plain, then one must ask him to *reconsider. Thorn v. Itmann Coal Co.*, 3 F.3d 713, 18 BLR 2-16 (4th Cir. 1993).

Fitts, 39 F.3d at 783, 18 BLR at 2-387. The administrative law judge, consistent with the Board's remand instructions, properly reevaluated the medical opinions of Drs. Rosecan and Rao and specifically discussed the various clinical findings and work and medical histories relied upon by these physicians in making their diagnoses of pneumoconiosis. Decision and Order at 5. The administrative law judge could thus rationally conclude that the credibility, and probative value, of the medical opinions of Drs. Rao and Rosecan was unaffected by any reliance on questionable evidence. *See Fitts, supra.*

Employer next generally contends that the administrative law judge acted in an inconsistent manner by discrediting Dr. Selby's opinion that claimant does not have pneumoconiosis while crediting Dr. Rosecan's opinion that claimant has pneumoconiosis. Employer also argues that the administrative law judge mischaracterized Dr. Selby's opinion and substituted his medical judgment for that of the medical experts in finding that Dr. Selby provided no explanation for his opinion that claimant does not have pneumoconiosis.

Employer's contentions lack merit. The administrative law judge noted Dr. Selby's explicit reliance on, *inter alia*, his interpretation of claimant's pulmonary function study in making his diagnosis of pneumoconiosis, and further noted that this pulmonary function

study was found to be invalid. Decision and Order on remand at 6. Specifically, the administrative law judge found:

> It is clear that Dr. Selby relied heavily on his pulmonary function study in diagnosing emphysema and ruling out pneumoconiosis. However, as noted, this study is invalid. Although Dr. Selby also referred to a normal arterial blood gas study, that type of testing measures different physiologic processes than does ventilatory testing. Further, blood gas testing does not provide a diagnostic tool to support the finding that was of primary importance to Dr. Selby in ruling out pneumoconiosis: that Claimant had a serious obstructive defect and only a slight restrictive defect. Thus, it appears that the remaining rational basis for Dr. Selby's opinion is almost entirely the negative x-ray interpretation. I therefore find that Dr. Selby's opinion is entitled to little if any weight.

Id. Contrary to employer's contention, the administrative law judge properly reevaluated the bases provided by Dr. Selby in arriving at his opinion that claimant does not have pneumoconiosis, and found that Dr. Selby's opinion was entitled to little or no weight because the pulmonary function study underlying Dr. Selby's opinion, upon which Dr. Selby relied heavily in diagnosing emphysema and ruling out pneumoconiosis, was found to be invalid. The administrative law judge thereby rationally determined that the credibility of Dr. Selby's opinion was adversely affected by his reliance on a questionable piece of evidence. *See Fitts, supra; Brinkley v. Peabody Coal Co.,* 14 BLR 1-147 (1990). Moreover, there is no inconsistency between the administrative law judge's weighing of Dr. Selby's report and his weighing of Dr. Rosecan's report and employer articulates none. Further, it is within the discretion of the administrative law judge to determine the credibility of the medical opinion evidence. *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20 (1988). Thus, to the extent that employer requests that the Board weigh the evidence, we decline to do so. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989).

Employer next contends that the administrative law judge failed to follow the Board's instructions in finding total disability established at 20 C.F.R. §718.204(c) (2000).[3] In *Higgins*, the Board affirmed the administrative law judge's finding that the opinions of Drs. Tuteur and Kelly were insufficient to enable him to infer whether claimant was capable of performing his usual coal mine employment. Board's 1999 Decision and Order at 9. The

[3]The provision pertaining to total disability, previously set out at 20 C.F.R. §718.204(c), 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), is now found at 20 C.F.R. §718.204(c).

Board, however, agreed with employer's argument that the administrative law judge provided an invalid reason for discounting Dr. Selby's opinion, namely that Dr. Selby found that claimant was not totally disabled and was capable of performing the job of a truck driver, whereas the administrative law judge determined that claimant's usual coal mine employment involved more strenuous work than that of simply driving a truck. *Id.* The Board thus determined that the administrative law judge mischaracterized Dr. Selby's opinion and, on this basis, vacated the administrative law judge's findings pursuant to 20 C.F.R. §718.204(c) (2000) for a reweighing of the evidence thereunder on remand.

On remand, the administrative law judge noted that Board previously upheld his determination that the pulmonary function study evidence supports a finding of total respiratory and pulmonary disability, as well as his determination with regard to the opinions of Drs. Tuteur and Kelly as outlined above. *See* discussion, *infra*. The administrative law judge next addressed the Board's remand instruction with regard to Dr. Selby's report. The administrative law judge indicated:

> But the Board ruled that I provided an "invalid' reason for discounting Dr. Selby's opinion, viz., that Dr. Selby found that Claimant was not totally disabled and was capable of performing the job of a truck driver, while I found that his job involved more strenuous work. The Board is correct, as Dr. Selby opined that Claimant was capable of performing
> his coal mine employment "as a gob truck driver, shooter, driller, cutting machine operator, general materials and labor," etc. (1999 Board D & O at 9)[.] However, I discounted the opinion of Dr. Selby primarily because he relied on the invalid pulmonary function study of March 16, 1989. (1998 D & O at 8)[.] I reiterate that determination based on the serious defect in Dr. Selby's conclusion.
>
> Consequently, I again find that the record as a whole - principally the four valid pulmonary function studies - establishes that Claimant is totally disabled, pursuant to [20 C.F.R.] §718.204(c).

Decision and Order on remand at 6, 7.

We affirm the administrative law judge's determination on remand that the relevant evidence supports a finding of a totally disabling respiratory or pulmonary impairment and reject employer's challenge thereto. 20 C.F.R. §718.204(b). Specifically, the administrative law judge acknowledged that the Board correctly determined that he had mischaracterized Dr. Selby's findings relevant to what work claimant was capable of performing, and rectified his mistake by noting Dr. Selby's actual findings. Moreover, the administrative law judge provided a valid basis for discounting Dr. Selby's opinion that claimant was not totally

disabled, namely the administrative law judge referred to Dr. Selby's reliance on the pulmonary function study dated March 16, 1989 which was determined to be invalid. *See Fitts, supra*; *Brinkley, supra*. Contrary to employer's contention, the fact that the administrative law judge had previously discredited Dr. Selby's opinion based on this defect, does not render the administrative law judge's finding outside of the Board's instructions. In this regard, we decline to address employer's additional arguments concerning the administrative law judge's previous consideration of other evidence relevant to the issue of total disability, as the Board's pertinent prior holdings constitute the law of the case, and shall not be disturbed. *See United States v. U.S. Smelting & Mining Co.*, 339 U.S. 186 (1950); *reh'g denied*, 339 U.S. 972 (1950); *Dean v. Marine Terminals Corp.*, 15 BRBS 394 (1983); *Whitlock v. Lockheed Shipbuilding and Construction Co.*, 15 BRBS 332 (1983); *see also Stark v. Bethlehem Steel Corp.*, 15 BRBS 288 (1983).

Employer next challenges the administrative law judge's determination that claimant established total disability due to pneumoconiosis under 20 C.F.R. §718.204(b) (2000). In remanding the case for reconsideration of the disability causation issue, the Board indicated:

> Inasmuch as the administrative law judge must reevaluate the opinion of Dr. Tuteur, as discussed *infra*, we vacate the administrative law judge's findings pursuant to Section 718.204(b) for a reweighing of the evidence thereunder on remand.

Board's 1999 Decision and Order at 9. On remand, the administrative law judge initially noted the Board's affirmance of his credibility determinations with regard to the medical opinions of Drs. Goodenberger, Kelly and Rao, and noted, however, that the Board did not uphold his discrediting of Dr. Tuteur's report. He next reconsidered Dr. Tuteur's opinion pursuant to the Board's remand instructions. He determined that the report had to be "discounted" for the following reasons: (1) while the Board correctly determined that the degree of impairment which Dr. Tuteur found demonstrated is not relevant to his disability causation analysis, Dr. Tuteur's reliance on pulmonary function study evidence was relevant to the issue of disability causation because of the purpose to which he put this evidence. Specifically, Dr. Tuteur relied on his own invalid pulmonary function study in concluding that claimant had an obstructive rather than a restrictive defect, which defect was compatible with cigarette smoking induced chronic bronchitis and is not associated with the inhalation of coal mine dust or the development of coal workers' pneumoconiosis; (2) while Dr. Tuteur subsequently reviewed other valid pulmonary function studies in concluding that claimant had a smoking-related obstructive defect, he did not provide any explanation for his opinion that no restrictive defect was shown by these pulmonary function studies or by his underlying pulmonary function study; and (3) Dr. Tuteur failed to explain the basis for his statement that an obstructive defect is not causally related to coal workers' pneumoconiosis. Decision and Order on remand at 7, 8. The administrative law judge concluded, "My finding that

Claimant's total disability was caused, at least in part, by his pneumoconiosis is amply supported by the opinions of Drs. Kelly and Rao." *Id.* at 8.

In challenging the administrative law judge's disability causation finding, employer generally asserts that the record establishes that claimant is totally disabled due to his age and his smoking habit. Employer also contends that the administrative law judge disagreed with the Board's remand instruction to reevaluate Dr. Tuteur's opinion, and that the administrative law judge weighing of this report is, by the administrative law judge's own admission, "a pretext, in light of the fact that Dr. Tuteur later surveyed the valid tests and his opinion remained unchanged." Employer's Brief at 28. Employer continues:

> The ALJ supported his conclusion not by anything in the record, but by a reference to what he perceived to be [the National Institute of Occupational Safety and Health's] position, reflected in a law review article, that coal dust can cause pulmonary obstruction... The resort outside the record and with no notice to the parties violates the Administrative Procedure Act, [] [5 U.S.C. §557(c)(3)(A), as incorporated by 5 U.S.C. §554(c)(2), 33 U.S.C. §§919(d) and 30 U.S.C. §932(a).]

Id. at 28, 29. Employer next asserts that there is no dispute that exposure to coal dust may cause an obstructive impairment and Dr. Tuteur did not contend otherwise but found that claimant's obstructive impairment was related to his smoking habit. Lastly, employer offers several reasons in support of its position that Dr. Tuteur's opinion is credible, and more credible that the opinions of Drs. Kelly and Rao upon which the administrative law judge relied, in part, in finding that claimant is totally disabled due to pneumoconiosis.

Employer's contentions lack merit. The administrative law judge, following the Board's instruction to reconsider Dr. Tuteur's opinion attributing claimant's respiratory impairment to smoking and organic heart disease and ruling out pneumoconiosis as a contributing cause of claimant's impairment, provided valid reasons for discrediting the physician's opinion. Specifically, the administrative law judge initially explained how Dr. Tuteur's interpretation of the pulmonary function study results was linked to his analysis of the cause of claimant's disability. He then permissibly found that Dr. Tuteur failed to explain adequately how the pulmonary function study evidence he reviewed supported his finding of an obstructive defect, as opposed to a restrictive defect, related to claimant's smoking. *See Oggero v. Director, OWCP*, 7 BLR 1-860 (1985); *York v. Jewell Ridge Coal Corp.*, 7 BLR 1-766 (1985). Further, the administrative law judge's Decision and Order must be based on the record made while the case was before the administrative law judge. 20 C.F.R. §725.477. While the administrative law judge, in a footnote, referred to a document outside the record, a review of the record reveals that he did not rely on this document in making his credibility determinations regarding Dr. Tuteur's medical opinion. *See* Decision and Order on remand

at 8 n.3. We thus reject employer's assertion to the contrary and decline to address its arguments related thereto as any error on the administrative law judge's part in this regard could not impact the outcome of this case. *Larioni v. Director, OWCP*, 6 BLR 1-1276 (1984).

Lastly, employer contends that it should be dismissed as the responsible operator in this case. Employer states:

> After twelve years of litigation and five awards, it is clear that [employer] cannot receive a fair hearing in this case and under those circumstances its due process right to a fair hearing has been violated.

Employer's Brief at 30. In support of its position, employer cites *Lane Hollow Coal Co. v. Director, OWCP* [*Lockhart*], 137 F.3d 799, 21 BLR 2-302 (4th Cir. 1998) and *Consolidation Coal Co. v. Borda*, 171 F.3d 175, 21 BLR 2-545 (4th Cir. 1999). Employer argues that in this case, as in the case in *Island Creek Coal Co. v. Holdman*, 202 F.3d 873, 22 BLR 2-25 (6th Cir. 2000), although employer was timely notified of the claim,

> the administrative law judge's intransigence over the last decade of litigation has deprived employer of the ability to have [a] fair hearing. In addition, the substantial delay has deprived the employer of a "just, efficient and final resolution" of the claim asserted against it. *See Jordan v. Director, OWCP*, 892 F.2d 482, [] [13 BLR 2-184] (6th Cir. 1989). This delay has prejudiced the employer, and it violates the principles of due process, and warrants dismissal of the employer.

Employer's Brief at 31.

Employer's contentions lack merit. Insofar as employer relies on the decisions in *Lockhart* and *Borda* in support of its due process argument, employer's reliance is unavailing as both *Lockhart* and *Borda* are distinguishable on their facts from the instant case. Specifically, both *Lockhart* and *Borda* involved the fact that the responsible operator was not timely notified of the claim, whereas employer in the instant case concedes that it was timely notified of the claim. Employer's Brief at 31. Further, in *Holdman*, the court found that the employer had been deprived of a fair day in court and had thus suffered a violation of its right to due process, due to the fact that the Department of Labor had lost the evidentiary record during the pendency of employer's motion for reconsideration of an administrative law judge's award of benefits. *See Holdman, supra.* The instant case involves no such facts. Further, while we recognize the protracted procedural history in the instant case, at no time was employer deprived of a fair opportunity to mount a meaningful defense. *Cf. Lockhart, supra*. Moreover, employer fails to articulate any argument or cite to any instance

in support of its summary assertion that the administrative law judge was intransigent during the course of the adjudication of the instant case. Accordingly, we deny employer's request that it be dismissed from the case.

Accordingly, the administrative law judge's Decision and Order (Upon Fourth Remand by the Benefits Review Board) is affirmed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge