

BRB No. 05-0130 BLA

ACE CHANEY )  
 )  
 Claimant-Petitioner )  
 )  
 v. )  
 )  
 GOLDEN CHANCE MINING ) DATE ISSUED: 06/29/2005  
 )  
 and )  
 )  
 WEST VIRGINIA COAL WORKERS' )  
 PNEUMOCONIOSIS FUND )  
 )  
 Employer/Carrier- )  
 Respondents )  
 )  
 DIRECTOR, OFFICE OF WORKERS' )  
 COMPENSATION PROGRAMS, UNITED )  
 STATES DEPARTMENT OF LABOR )  
 )  
 Party-in-Interest ) DECISION and ORDER

Appeal of the Decision and Order – Denying Benefits of Stephen L. Purcell, Administrative Law Judge, United States Department of Labor.

Leonard Stayton, Inez, Kentucky, for claimant.

Robert Weinberger (West Virginia Coal Workers' Pneumoconiosis Fund), Charleston, West Virginia, for employer.

Before: SMITH, HALL, and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order – Denying Benefits (03-BLA-6254) of Administrative Law Judge Stephen L. Purcell rendered 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). The administrative law judge credited claimant with 5.96 years of coal mine employment and accepted employer's concession

of the existence of simple pneumoconiosis and the presence of a totally disabling respiratory or pulmonary impairment. After considering the medical opinion evidence, the administrative law judge concluded that claimant failed to meet his burden of establishing that his pneumoconiosis arose out of his coal mine employment pursuant to 20 C.F.R. §718.203(c) or that his pneumoconiosis was a substantially contributing cause of his total disability pursuant to 20 C.F.R. §718.204(c). Accordingly, the administrative law judge denied benefits.

On appeal, claimant contends that the administrative law judge failed to consider all relevant evidence when he found that claimant did not establish that his pneumoconiosis arose out of coal mine employment. Claimant also contends that the record contains no contrary evidence regarding the cause of his pneumoconiosis or total disability, and thus, the administrative law judge should have credited the opinions by Drs. Baker and Ranavaya stating that claimant's pneumoconiosis arose out of coal mine employment and that his total disability is due to his pneumoconiosis. Employer responds, urging affirmance. The Director, Office of Workers' Compensation Programs has indicated that he will not participate in 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 into the Act by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

To be entitled to benefits under the Act, claimant must demonstrate by a preponderance of the evidence that he is totally disabled due to pneumoconiosis arising out of coal mine employment. 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes a finding of entitlement. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987).

After considering of the administrative law judge's Decision and Order, the issues on appeal, and the evidence of record, we conclude that the administrative law judge's denial of benefits pursuant to Section 718.204(c) is supported by substantial evidence, contains no reversible error, and must therefore be affirmed. In determining that claimant failed to establish that his totally disabling respiratory impairment is due to pneumoconiosis pursuant to Section 718.204(c), the administrative law judge found that in Dr. Ranavaya's initial report of May 21, 2002, Dr. Ranavaya relied upon an inflated coal mine employment history of twelve years and a "grossly understated cigarette

smoking history of only ½ pack per day beginning in 1965.”<sup>1</sup> Decision and Order at 9. By contrast, the administrative law judge found that claimant smoked one to one and one-half packs per day for twenty-five years, and smoked three to four packs per day when he was unemployed.<sup>2</sup> Decision and Order at 4; Hearing Tr. at 30-31, 42. The administrative law judge found that although Dr. Ranavaya subsequently relied upon a more accurate coal mine employment history of 5.98 years provided by the district director, he did not correct the smoking history or address its possible role in claimant’s disability.<sup>3</sup> The administrative law judge additionally found Dr. Ranavaya’s opinion “cursory” in its “failure to provide any further analysis in support of his statement that ‘Mr. Chaney’s impairment is caused by CWP.’” Decision and Order at 9, 10.

Similarly, the administrative law judge found that although Dr. Baker<sup>4</sup> based his disability causation opinion on a “somewhat more accurate” smoking history of one pack per day since age twenty-six, even this history was “significantly less than [c]laimant’s

---

<sup>1</sup> Dr. Ranavaya diagnosed pneumoconiosis based on a twelve-year long history of occupational exposure to dust in coal mining and radiological evidence, coronary artery disease, and hypertension based upon history. Dr. Ranavaya diagnosed a moderate impairment due to a “major extent” to the pneumoconiosis, coronary artery disease and hypertension. Director’s Exhibit 10.

<sup>2</sup> Claimant’s testimony does not reveal how long the period of unemployment lasted. On appeal, claimant has not challenged the administrative law judge’s finding as to the extent of his smoking history.

<sup>3</sup> Dr. Ranavaya’s second report, dated August 22, 2002, stated that with the corrected coal mine employment history, it would still be Dr. Ranavaya’s reasoned opinion that claimant has evidence of coalworker’s pneumoconiosis which occurred primarily from his coal dust exposure. Dr. Ranavaya further stated that even though there is documentation of only 5.98 years of coal mine employment, it is probable in a susceptible individual to develop coalworker’s pneumoconiosis in such an amount of time. Finally, Dr. Ranavaya stated that in his opinion, claimant’s pulmonary impairment is caused by his coalworker’s pneumoconiosis. Director’s Exhibit 11.

<sup>4</sup> On September 29, 2003, Dr. Baker diagnosed coalworker’s pneumoconiosis based on abnormal chest x-ray and coal dust exposure, chronic obstructive pulmonary disease with severe obstructive defect based on pulmonary function study, moderate hypoxemia based on blood gas study, chronic bronchitis based on a history of cough, sputum production and wheezing, and ischemic heart disease, S/P acute myocardial infarction by history. Dr. Baker opined that claimant suffered from a severe impairment and that all of the diagnoses fully contributed to the impairment. Claimant’s Exhibit 1.

actual smoking history.” Decision and Order at 10.

Contrary to claimant’s assertion that the administrative law judge improperly discounted the opinions of Drs. Baker and Ranavaya, he acted within his discretion in finding that neither opinion was well documented or reasoned because the physicians relied on inaccurate smoking histories in reaching their conclusions as to the cause of claimant’s total disability. *See Bobick v. Saginaw Mining Co.*, 13 BLR 1-52, 1-54 (1988); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-155 (1989)(*en banc*). Additionally, the administrative law judge permissibly discounted Dr. Ranavaya’s opinion because Dr. Ranavaya did not adequately explain his opinion regarding the role of pneumoconiosis in claimant’s impairment. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533, 21 BLR 2-323, 2-335 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441, 21 BLR 2-269, 2-275-76 (4th Cir. 1997); *Clark*, 12 BLR at 1-155.

Although the administrative law judge also cited Dr. Baker’s reliance on an inaccurate coal mine employment history as an additional factor in his decision to discount the opinion, and claimant correctly notes that the administrative law judge did not consider Dr. Baker’s December 17, 2003 supplemental letter reasserting the physician’s conclusions based on a coal mine employment history of six years, this error is harmless because, as just discussed, the administrative law judge provided a valid, alternative reason for discrediting Dr. Baker’s opinion. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984). Furthermore, we reject claimant’s assertion that the administrative law judge was bound to accept the opinions of Drs. Baker and Ranavaya because there was no contrary evidence in the record.<sup>5</sup> The administrative law judge may refuse to credit even an uncontradicted medical opinion if there is a legitimate reason and need not accept the opinion of any particular medical expert, but must weigh the evidence and draw his or her own conclusions. *See Lafferty v. Cannelton Industries, Inc.*, 12 BLR 1-190, 1-192 (1989). Because the administrative law judge provided valid reasons for discrediting the opinions of Drs. Baker and Ranavaya, we affirm his finding that claimant failed to establish that his total disability is due to pneumoconiosis pursuant to Section 718.204(c).

Because claimant has failed to establish that his totally disabling respiratory impairment is due to pneumoconiosis, a requisite element of entitlement, we need not address claimant’s argument that the evidence establishes that his pneumoconiosis arose out of coal mine employment pursuant to Section 718.203(c). *See Anderson*, 12 BLR at 1-112; *Trent*, 11 BLR at 1-27. Because the administrative law judge’s findings are

---

<sup>5</sup> The administrative law judge had discredited Dr. Zaldivar’s contrary opinion because Dr. Zaldivar did not diagnose pneumoconiosis. Decision and Order at 10 n.4.

supported by substantial evidence, we affirm his determination that claimant has not established entitlement to benefits.

Accordingly, the administrative law judge's Decision and Order – Denying Benefits is affirmed.

SO ORDERED.

---

ROY P. SMITH  
Administrative Appeals Judge

---

BETTY JEAN HALL  
Administrative Appeals Judge

---

JUDITH S. BOGGS  
Administrative Appeals Judge