BRB No. 14-0111 BLA

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| JUDY A. PACE<br>(Widow of TRACY R. PACE)<br><br>Claimant-Petitioner<br><br>v.<br><br>EASTOVER MINING COMPANY<br><br>Employer-Respondent<br><br>DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR<br><br>Party-in-Interest | ) | DATE ISSUED: 11/25/2014<br><br>DECISION and ORDER |

Appeal of the Decision and Order Denying Benefits of Adele Higgins Odegard, Administrative Law Judge, United States Department of Labor.

Judy A. Pace, Ages-Brookside, Kentucky, *pro se*.

William Stacy Huff (Huff Law Office), Harlan, Kentucky, for employer.

Before: HALL, Acting Chief Administrative Appeals Judge, McGRANERY and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant[1] appeals, without the assistance of counsel,[2] the Decision and Order Denying Benefits (2010-BLA-05890) of Administrative Law Judge Adele Higgins

[1] Claimant is the widow of the miner, Tracy R. Pace, who died on July 30, 2009.

[2] Robin Napier, a benefits counselor with Stone Mountain Health Services of St. Charles, Virginia, requested, on behalf of claimant, that the Board review the administrative law judge's decision, but Ms. Napier is not representing claimant on appeal. *See Shelton v. Claude V. Keen Trucking Co.*, 19 BLR 1-88 (1995) (unpub. Order).

Odegard, rendered on a survivor's claim filed on November 12, 2009, pursuant to the provisions of the Black Lung Benefits Act, as amended, 30 U.S.C §§901-944 (2012) (the Act). Based on the filing date of this claim, the administrative law judge considered claimant's entitlement under amended Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4).[3] Although the administrative law judge credited the miner with 8.78 years of coal mine employment, because this was fewer than fifteen years, the administrative law judge found that claimant was unable to invoke the rebuttable presumption of death due to pneumoconiosis at amended Section 411(c)(4). The administrative law judge further found that, because the evidence did not establish the existence of complicated pneumoconiosis, claimant was unable to invoke the irrebuttable presumption of death due to pneumoconiosis pursuant to 20 C.F.R. §718.304. Additionally, the administrative law judge determined that the medical evidence failed to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(b). Accordingly, benefits were denied.

On appeal, claimant generally challenges the administrative law judge's denial of benefits. Employer responds, urging affirmance of the administrative law judge's denial of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response brief.

In an appeal filed by a claimant without the assistance of counsel, the Board considers the issue raised to be whether the Decision and Order below is supported by substantial evidence. *McFall v. Jewell Ridge Coal Corp.*, 12 BLR 1-176 (1989); *Stark v. Director, OWCP*, 9 BLR 1-36 (1986). The Board must affirm the administrative law judge's Decision and Order if the findings of fact and conclusions of law are rational, supported by substantial evidence, and in accordance with applicable law.[4] 33 U.S.C.

[3] Under amended Section 411(c)(4), claimant is entitled to a rebuttable presumption that the miner's death was due to pneumoconiosis if the miner worked at least fifteen years in underground coal mine employment, or in surface coal mine employment in conditions that were substantially similar to those of an underground mine, and he also suffered from a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4), as implemented by 20 C.F.R. §718.305. Additionally, pursuant to amended Section 932(*l*) if a miner was awarded benefits during his lifetime, an eligible survivor is not required to establish death due to pneumoconiosis and is automatically entitled to benefits. *See* 30 U.S.C. §932(*l*). Claimant, however, is not eligible for benefits pursuant to amended Section 932(*l*), as there is no indication in the record that the miner was receiving benefits at the time of his death.

[4] This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit, as the miner's coal mine employment was in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200 (1989) (en banc); Director's Exhibits 5, 7, 9.

§921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Benefits are payable on survivors' claims when the miner's death is due to pneumoconiosis. *See* 20 C.F.R. §§718.1, 718.205; *Neeley v. Director, OWCP*, 11 BLR 1-85 (1988). A miner's death will be considered to be due to pneumoconiosis if pneumoconiosis was the cause of the miner's death, pneumoconiosis was a substantially contributing cause or factor leading to the miner's death, death was caused by complications of pneumoconiosis, the presumption relating to complicated pneumoconiosis, set forth at 20 C.F.R. §718.304, is applicable, or the presumption set forth at amended Section 411(c)(4), as implemented by 20 C.F.R. §718.305, is invoked and not rebutted. *See* 20 C.F.R. §718.205(b)(1)-(4). Pneumoconiosis is a "substantially contributing cause" of a miner's death if it hastens the miner's death. 20 C.F.R. §718.205(b)(6); *see Brown v. Rock Creek Mining Co.*, 996 F.2d 812, 17 BLR 2-135 (6th Cir. 1993).

**I. Amended Section 411(c) Presumption – Length of Coal Mine Employment.**

Initially, we consider the administrative law judge's determination regarding the length of the miner's coal mine employment, as it is relevant to whether claimant may invoke the rebuttable presumption that the miner's death was due to pneumoconiosis under amended Section 411(c)(4). Claimant bears the burden of proof in establishing the length of the miner's coal mine employment. *Mills v. Director, OWCP*, 348 F.3d 133, 136, 23 BLR 2-12, 2-16 (6th Cir. 2003); *Kephart v. Director, OWCP*, 8 BLR 1-185, 1-186 (1985). The administrative law judge's finding as to the length of coal mine employment will be upheld if it is based on a reasonable method of computation and is supported by substantial evidence in the record considered as a whole. *Hunt v. Director, OWCP*, 7 BLR 1-709, 1-710-11 (1985); *Shelesky v. Director, OWCP*, 7 BLR 1-34 (1984); *Caldrone v. Director, OWCP*, 6 BLR 1-575, 1-578 (1983).

The regulation at 20 C.F.R. §725.101(a)(32)(ii)-(iii) states, in relevant part:

> (ii) To the extent the evidence permits, the beginning and ending dates of all periods of coal mine employment shall be ascertained. The dates and length of coal mine employment may be established by any credible evidence including (but not limited to) company records, pension records, earnings statements, coworker affidavits, and sworn testimony. . . .
>
> (iii) If the evidence is insufficient to establish the beginning and ending dates of the miner's coal mining employment, or the miner's employment lasted less than a calendar year, then the adjudication officer may use the following formula: divide the miner's yearly income from work as a miner

> by the coal mine industry's average daily earnings for that year, as reported by the Bureau of Labor Statistics (BLS). A copy of the BLS table shall be made a part of the record if the adjudication officer uses this method to establish the length of the miner's work history.

20 C.F.R. §725.101(a)(32)(ii)-(iii).

In this case, the administrative law judge considered the miner's earnings records obtained from the Social Security Administration, which listed quarterly earnings with employer from 1973 to 1977, and annual earnings only, for the years 1977 through 1983. Director's Exhibit 9. The administrative law judge stated that she was unable to determine the beginning and ending dates of the miner's employment and, therefore, applied the formula set forth at 20 C.F.R. §725.101(a)(32)(iii).[5] Based on this reasonable method, the administrative law judge credited the miner with 8.78 years of coal mine employment from 1973-1983.[6] *See Hunt*, 7 BLR at 1-710-11; *Caldrone*, 6 BLR at 1-578. Because we detect no error in the administrative law judge's finding that the miner worked less than fifteen years of coal mine employment, we affirm the administrative law judge's determination that claimant is unable to invoke the rebuttable presumption that the miner's death was due to pneumoconiosis under amended Section 411(c)(4).[7]

**II. Complicated Pneumoconiosis**

Under Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), and its implementing regulation, 20 C.F.R. §718.304, there is an irrebuttable presumption that a miner's death was due to pneumoconiosis if the miner was suffering from a chronic dust disease of the lung which (a) when diagnosed by x-ray, yields one or more opacities greater than one

[5] The administrative law judge provided the website for the Bureau of Labor Statistics table, and set forth a chart identifying the industry averages for the years the miner worked. Decision and Order at 5 n.7.

[6] The administrative law judge did not include the miner's earnings from his work with United Mine Workers of America (UMWA) in her calculation, but noted that even if the earnings from UMWA were counted, they would add only .43 years to the miner's total years of coal mine employment. Decision and Order at 6.

[7] Claimant alleged that the miner worked nine years from April 1972 to March 1983, but there is no documentary evidence in the record to establish the miner's coal mine employment in 1972. Director's Exhibit 6. Employer indicated that the miner worked from Apri1 25, 1973 to March 21, 1983. Director's Exhibit 7. The district director determined that the miner worked eight years in coal mine employment. Director's Exhibit 39.

centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung; or (c) when diagnosed by other means, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). *See* 20 C.F.R. §718.304. The United States Court of Appeals for the Sixth Circuit has held that a miner may establish the existence of complicated pneumoconiosis at 20 C.F.R. §718.304(b), based on a physician's opinion that the biopsy or autopsy evidence shows massive lesions *or*, *in the alternative*, that the nodule or nodules observed would appear as greater than one centimeter on x-ray. *See Gray v. SLC Coal Co.*, 176 F.3d 382, 21 BLR 2-615 (6th Cir. 1999) (emphasis added). A report of biopsy or autopsy need not contain the specific words "massive" or "lesions" in order to satisfy the requirements at 20 C.F.R. §718.304(b). *See Pittsburg & Midway Coal Mining Co. v. Director, OWCP* [*Cornelius*], 508 F.3d 975, 986, 24 BLR 2-72, 89 (11th Cir. 2007); *Perry v. Mynu Coals, Inc.*, 469 F.3d 360, 365 n.4, 23 BLR 2-374, 2-385 n.4 (4th Cir. 2006) (autopsy report diagnosing "[c]oal worker type pneumoconiosis, complicated type, with progressive massive fibrosis" sufficient to invoke the presumption pursuant to 20 C.F.R. §718.304(b)).

The introduction of legally sufficient evidence of complicated pneumoconiosis does not automatically qualify a claimant for the irrebuttable presumption. The administrative law judge must first determine whether the evidence in each category tends to establish the existence of complicated pneumoconiosis, and then must weigh together the evidence at subsections (a), (b), and (c) before determining whether invocation of the irrebuttable presumption pursuant to 20 C.F.R. §718.304 has been established. *See Gray*, 176 F.3d at 387, 21 BLR at 2-624; *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31 (1991) (en banc).

Relevant to 20 C.F.R. §718.304(a), the administrative law judge considered three interpretations of two x-rays, dated December 12, 2007 and November 12, 2008.[8] The administrative law judge found that the December 12, 2007 x-ray was read as negative for simple and complicated pneumoconiosis by Dr. Wiot, dually qualified as Board-certified radiologist and B reader. *See* Decision and Order at 8, 10; Director's Exhibit 30. In an October 30, 2008 letter submitted in conjunction with his negative interpretation Dr. Wiot stated: "There was a single nodular density superimposed over the right third rib anteriorly on the right which is probably partially calcified, but a more significant

[8] The miner's treatment records include several x-rays identifying a nodule that exceeds one centimeter. Director's Exhibits 19, 20. The administrative law judge gave no weight to the x-rays contained in the miner's treatment record because there was "no evidence that they were classified under the ILO system . . . ." Decision and Order at 7, *citing* 20 C.F.R. 718.102(e).

nodule cannot be excluded. This is not a manifestation of coal dust exposure." Director's Exhibit 30.

The administrative law judge found that the November 12, 2008 x-ray was read as positive for simple and complicated pneumoconiosis, Category A, by Dr. Miller, a dually qualified radiologist, but as negative by Dr. Wiot. Decision and Order at 8. In a letter submitted in conjunction with his positive interpretation, Dr. Miller stated: "There is a 1.5 [centimeter] right perihilar opacity and a 3x2 [centimeter] left perihilar opacity compatible with complicated pneumoconiosis (A). However, malignancy [cancer] is not excluded." Director's Exhibit 32. In a letter submitted in conjunction with his negative interpretation, Dr. Wiot stated: "There is a nodule superimposed over the right third rib, which would raise the question that this is metastatic disease with a primary carcinoma on the left and metastatic on the right." Employer's Exhibit 1.

In weighing the x-ray evidence, the administrative law judge found that the December 12, 2007 x-ray was negative for simple and complicated pneumoconiosis, while the November 12, 2008 x-ray was in equipoise, as "equally qualified physicians came to different conclusions." Decision and Order at 10. Thus, the administrative law judge found that claimant failed to establish that the miner had complicated pneumoconiosis, based on the x-ray evidence, pursuant to 20 C.F.R. §718.304(a). Because we discern no error in the manner in which the administrative law judge weighed the x-ray evidence, we affirm her finding at 20 C.F.R. §718.304(a). *See Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 18 BLR 2A-1 (1994); *Woodward v. Director, OWCP*, 991 F.2d 314, 321, 17 BLR 2-77, 2-87 (6th Cir. 1993).

In considering the biopsy evidence pursuant to 20 C.F.R. §718.304(b), the administrative law judge noted that the record contained a surgical pathology report, dated January 8, 2009, pertaining to the miner's bronchoscopy and mediastinoscopy. Director's Exhibit 32-10. The report addressed the miner's biopsied lymph nodes and described "anthrasilicosis" in the right paratracheal, left paratracheal, and subcarinal lymph nodes, but no tumor fragments were observed in the biopsied lymph nodes. *Id*. On February 12, 2009, a left lobectomy was performed on the miner. Director's Exhibit 32-23. The surgical pathology report from that procedure described metastatic squamous cell carcinoma in one of the lymph node tissue samples, and "hyalinized anthrasilicotic granuloma" in two of the lymph node tissue samples. Director's Exhibit 32-26. The left upper lobe of the lung was diagnosed with "moderately differentiated squamous cell carcinoma with satellite tumor nodule involving subpleural anthrasilicotic scar," "in situ squamous cell carcinoma" in the bronchial margin, and "anthrasilicosis with extensive pleural and subpleural scarring." *Id*. Under "Description of non-tumorous lung" there was a notation of "anthrasilicosis with anthrasilicotic scarring (compatible with complex coal workers' pneumoconiosis)." *Id*.

The administrative law judge also considered a pathology report by Dr. Oesterling, based on his review of the slides from the miner's biopsies. Director's Exhibit 31. Dr. Oesterling diagnosed "two fairly aggressive tumors" in the upper lobes of both the miner's left and right lungs. *Id.* In the left upper lobe, Dr. Oesterling identified "squamous cell carcinoma . . . with satellite lesions and involvement of the hilar lymph nodes[,]" and in the right upper lobe he noted that the "lesion, a cancer, has a neuroendocrine appearance but is obviously very malignant." *Id*. In addition to cancer, Dr. Oesterling described "moderate pleural based deposition of coal dust resulting in reactive pleural fibrosis and *very minimal micronodular coalworkers' pneumoconiosis.*" *Id*. (emphasis added). Dr. Oesterling also identified "respiratory bronchiolitis" and "modest centrilobular emphysema[,]" both of which he attributed to cigarette smoking. *Id*.

In analyzing the biopsy evidence, the administrative law judge found that the January 8, 2009 and February 12, 2009 surgical pathology reports described two large nodules measuring 4 x 3.4 x 2.5 centimeters and 2.4 x 1.8 x 1.5 centimeters, which were tumors of squamous cell carcinoma and do not constitute "a massive *pneumoconiotic* lesion of the lungs." Decision and Order at 31 (emphasis added). She specifically observed that, while "anthrasilicosis" was identified in the pleura surrounding these nodules, "[t]here are no size descriptions of the areas with anthrasilicotic scarring and no description which could be interpreted as a massive lesion of pneumoconiosis." *Id*. The administrative law judge indicated that, even if the surgical reports were considered to be supportive of a finding of complicated pneumoconiosis, she gave controlling weight to Dr. Oesterling's opinion that the masses in the miner's lungs were due to cancer. *Id*.

After consideration of the biopsy evidence, we conclude that the administrative law judge acted within her discretion in finding that it is insufficient to establish the existence of complicated pneumoconiosis. *See Wolf Creek Collieries v. Director, OWCP* [*Stephens*], 298 F.3d 511, 522, 22 BLR 2-494, 2-513 (6th Cir. 2002); *Peabody Coal Co. v. Groves*, 277 F.3d 829, 836, 22 BLR 2-320, 2-325 (6th Cir. 2002), *cert. denied*, 537 U.S. 1147 (2003). The administrative law judge reasonably determined that the surgical reports did not establish massive lesions attributable to pneumoconiosis. *See Gray*, 176 F.3d at 390, 21 BLR at 2-629. She also permissibly assigned controlling weight to Dr. Oesterling's opinion that the miner's nodules were due to cancer, insofar as she found that he prepared a "detailed and thorough report" and because Dr. Oesterling is a Board-certified pathologist, whereas the credentials of the physicians who prepared the January 8, 2009 and February 12, 2009 surgical reports were not of record. Decision and Order at 14; *see Director, OWCP v. Rowe*, 710 F.2d 251, 5 BLR 2-99 (6th Cir. 1983). Thus, we affirm, as supported by substantial evidence, the administrative law judge's finding that claimant is unable to establish complicated pneumoconiosis pursuant to 20 C.F.R. §718.304(b). *See Gray*, 176 F.3d at 390, 21 BLR at 2-629.

Relevant to 20 C.F.R. §718.304(c), the administrative law judge outlined the treatment records from UK Chandler Medical Center, Harlan Appalachian Regional Healthcare, UK Good Samaritan Hospital, Clover Fork Clinic, and Stone Mountain Health Services as follows: On December 11, 2008, a CT scan performed at Harlan Appalachian Regional Healthcare noted a "3.5 cm cavitating mass" in the miner's left upper lobe, and a differential diagnosis of possible "carcinoma versus active tuberculosis" was given. Director's Exhibit 20 at 202. Further evaluation by "PET CT scan" for tumor imaging was recommended. *Id*. On December 24, 2008, the miner's treating physician at Clover Fork Clinic, Dr. Manning, referred the miner to Dr. Ferraris at UK Chandler Medical Center, for evaluation and treatment of a recently identified "3.5 cm cavitary lesion" in the miner's left upper lobe. Director's Exhibit 32 at 46. Dr. Manning noted that the miner had "tobacco use disorder" and "COPD" [chronic obstructive pulmonary disease]. *Id*. Records from UK Chandler Medical Center indicate that the miner had a bronchoscopy and mediastinoscopy on January 8, 2009, which identified "anthrasilicosis," as discussed supra. Director's Exhibit 19 at 2-5. On January 29, 2009, the miner underwent a CT guided lung biopsy of the mass in the left upper lobe. *Id*. at 8-12. The miner underwent a right upper lobe wedge resection on April 16, 2009, and was diagnosed with large cell neuroendocrine carcinoma. Director's Exhibit 19 at 39-40. The miner was later admitted to Harlan Appalachian Regional Healthcare, twice in May 2009, for weakness, vomiting, and dehydration associated with chemotherapy and radiation treatment. Director's Exhibit 20 at 106-107, 124-125. On July 4, 2009, the miner developed pneumonia in the left lung, and subsequently died. Director's Exhibit 20 at 35-37.

The administrative law judge observed correctly that, while progress notes from Clover Fork Clinic include a notation of "CWPC," which may represent complicated pneumoconiosis, there was no specific explanation regarding the basis for the diagnosis. Decision and Order at 29, *quoting* Director's Exhibit 32. She therefore permissibly gave the treatment records little weight. *See Rowe*, 710 F.2d at 255, 5 BLR at 2-103. The administrative law judge also rationally gave "no weight to the reports diagnosing complicated pneumoconiosis which did not have the benefit of reviewing the information about [the miner's] cancer." Decision and Order at 31; *see Martin v. Ligon Preparation Co*., 400 F.3d 302, 305, 23 BLR 2-261, 2-283 (6th Cir. 2005).

The administrative law judge also found that Dr. Augustine diagnosed the miner with complicated pneumoconiosis, on December 2, 2008, after reviewing Dr. Miller's positive reading of complicated pneumoconiosis, on November 24, 2008, of the x-ray dated November 12, 2008. Director's Exhibit 32-78. The administrative law judge explained why she assigned little weight to Dr. Augustine's diagnosis, which was based on Dr. Miller's reading, as follows:

> Dr. Miller, the only radiologist to diagnose a large pneumoconiotic opacity, also stated that the lesion could represent malignancy. Thereafter, [the miner's] biopsies and PET scan confirmed that the [m]iner had a left upper lobe lesion that was a carcinoma and a right upper lobe nodule that was also a carcinoma. Dr. Miller's opinion that the lesions were pneumoconiotic is, therefore, contrary to the record evidence and outweighed by the overwhelming evidence that [the miner] had cancers in the left upper lobe and right upper lobe.

Decision and Order at 30; *see Rowe*, 710 F.2d at 255, 5 BLR at 2-103. In contrast, the administrative law judge gave "substantial weight" to Dr. Rosenberg's opinion that the miner suffered from "simple pneumoconiosis without progressive massive fibrosis," based on Dr. Rosenberg's review of "extensive documentation," which included the x-ray findings by Drs. Alexander and Wiot, the surgical pathology reports, the miner's treatment records and the miner's death certificate. Decision and Order at 27; *see* Employer's Exhibit 2.

We conclude that the administrative law judge acted within her discretion in determining the weight to accord the treatment records and medical opinion evidence, relevant to whether the miner had complicated pneumoconiosis. *See Martin*, 400 F.3d at 305, 23 BLR at 2-283; *Rowe*, 710 F.2d at 255, 5 BLR at 2-103; *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989) (en banc). Specifically, the administrative law judge permissibly relied upon Dr. Rosenberg's opinion that the miner did not have complicated pneumoconiosis, as she determined that his opinion was reasoned and documented. *See Stephens*, 298 F.3d at 522, 22 BLR at 2-513; Decision and Order at 27. We therefore affirm the administrative law judge's finding pursuant to 20 C.F.R. §718.304(c), and her overall determination that claimant did not invoke the irrebuttable presumption of death due to pneumoconiosis.

**III. Death Due to Pneumoconiosis**

In considering whether claimant established that the miner's death was due to pneumoconiosis, the administrative law judge observed that the miner was admitted to the emergency room at UK Chandler Medical Center on July 27, 2009, in acute respiratory failure and was diagnosed with a large left pleural effusion. Decision and Order at 23; Director's Exhibit 19-60. The miner died on July 30, 2009. Director's Exhibit 19-64. The administrative law judge observed correctly that the miner's treatment records "do not posit that [the miner's] death was due to pneumoconiosis." Decision and Order at 33; *see* Director's Exhibit 19-64. The miner's death certificate identified "cardiac arrest/ventricular fibrillation" as the immediate cause of death and "pneumonia/sepsis" as the underlying cause. Director's Exhibit 13. Pneumoconiosis was

not identified as a cause of death or a substantially contributing factor in the miner's death. *Id*.

With regard to the four medical opinions of record, the administrative law judge observed correctly that only Dr. Rinehart, the miner's treating physician, opined that the miner's death was due to pneumoconiosis. Decision and Order 33. The administrative law judge rationally determined that Dr. Rinehart's opinion was entitled to little weight because Dr. Rinehart failed to provide any explanation for his determination that COPD and black lung contributed to the miner's death, and failed to cite any specific findings in support of his diagnoses. *Id*. at 29, 33; *see Rowe*, 710 F.2d at 255, 5 BLR at 2-103; Director's Exhibit 32. Although Dr. Rinehart was the miner's treating physician, the administrative law judge permissibly concluded that his opinion was not entitled to any additional weight since it was not reasoned. *See Eastover Mining Co. v. Williams*, 338 F.3d 501, 513, 22 BLR 2-625, 2-649 (6th Cir. 2003); *Rowe*, 710 F.2d at 255, 5 BLR at 2-103; Decision and Order at 28-29. In contrast, the administrative law judge permissibly credited the opinions of Drs. Oesterling, Vuskovich, and Rosenberg, each of whom opined that the miner's death was not due to pneumoconiosis. *See Rowe*, 710 F.2d at 255, 5 BLR at 2-103; *Clark*, 12 BLR at 1-155; Decision and Order at 33; Director's Exhibits 31, 30, 38; Employer's Exhibit 2.

The determination of whether a medical opinion is adequately reasoned is a credibility finding reserved to the discretion of the administrative law judge as fact-finder. *See Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 22 BLR 2-537 (6th Cir. 2002); *Groves*, 277 F.3d at 836, 22 BLR at 2-325-26; *Rowe*, 710 F.2d at 255, 5 BLR at 2-103. The Board is not empowered to reweigh the evidence or substitute its inferences for those of the administrative law judge. *See Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989). As the administrative law judge permissibly exercised her discretion in weighing the evidence in this case, and her findings are supported by substantial evidence, we affirm the administrative law judge's determination that claimant failed to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). *See Rowe*, 710 F.2d at 255, 5 BLR at 2-103.

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

SO ORDERED.

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BETTY JEAN HALL, Acting
Chief Administrative Appeals Judge

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REGINA C. McGRANERY
Administrative Appeals Judge

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JUDITH S. BOGGS
Administrative Appeals Judge