U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 22-0035 BLA

REGINA RICHARDSON (o/b/o of DONALD G. RICHARDSON)	)	
Claimant-Respondent	)	
v.	)	
C & R COAL, INCORPORATED #3	)	
and	)	DATE ISSUED: 5/15/2023
OLD REPUBLIC INSURANCE COMPANY	)	
Employer/Carrier- Petitioners	)	
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 Noran J. Camp, Administrative Law Judge, United States Department of Labor.

Michael A. Pusateri (Greenberg Traurig LLP), Washington, D.C., for Employer and its Carrier.

Ann Marie Scarpino (Seema Nanda, Solicitor of Labor; Barry H. Joyner, Associate Solicitor; Andrea J. Appel, Counsel for Administrative Appeals), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: GRESH, Chief Administrative Appeals Judge, BUZZARD and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Noran J. Camp's Decision and Order Awarding Benefits (2019-BLA-05824) rendered on a claim filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case involves a miner's claim filed on September 6, 2017.[1]

The ALJ found Employer is the responsible operator. Considering entitlement under 20 C.F.R. Part 718,[2] he accepted Employer's concession that the Miner was totally disabled by a respiratory or pulmonary impairment. 20 C.F.R. §718.204(b). He determined the Miner had legal and clinical pneumoconiosis and his total disability was due to pneumoconiosis. 20 C.F.R. §§718.202(a), 718.203, 718.204(c). Thus, he awarded benefits.

On appeal, Employer argues the ALJ lacked the authority to hear and decide the case because the removal provisions applicable to ALJs rendered his appointment unconstitutional. It also asserts the ALJ erred in finding it is the responsible operator. Finally, it challenges the ALJ's findings that Claimant established clinical and legal pneumoconiosis and total disability due to pneumoconiosis.[3] Claimant has not filed a response. The Director, Office of Workers' Compensation Programs (the Director), has filed a limited response, urging the Benefits Review Board to reject Employer's

[1] The Miner died on August 30, 2020, while his claim was pending. Decision and Order at 2 n.2. Claimant, the Miner's widow, is pursuing his claim on behalf of his estate. *Id*.

[2] The ALJ did not render a specific finding on the length of the Miner's coal mine employment. He noted, however, that Claimant alleged twelve years of coal mine employment. Decision and Order at 5. The ALJ thus found Claimant could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, which provides a presumption that a miner is totally disabled due to pneumoconiosis if he had at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305; Decision and Order at 3-4.

[3] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established total disability. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4.

constitutional challenge to the ALJ's removal protections and to affirm the ALJ's determination that Employer is the responsible operator. Employer has filed a reply brief, reiterating its contentions.

The Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.[4] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman and Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Removal Provisions

Employer challenges the constitutionality of the removal protections afforded ALJs. Employer's Brief at 10-15; Employer's Reply Brief at 1-6. It generally argues the removal provisions for ALJs in the Administrative Procedure Act (APA), 5 U.S.C. §7521, are unconstitutional, citing Justice Breyer's separate opinion and the Solicitor General's argument in *Lucia v. SEC*, 585 U.S. , 138 S. Ct. 2044 (2018).[5] Employer's Brief at 10-15; Employer's Reply Brief at 1-6. Employer also relies on the United States Supreme Court's holdings in *Free Enterprise Fund v. Public Co. Accounting Oversight Board.*, 561 U.S. 477 (2010), and *Seila Law v. CFPB*, 591 U.S. , 140 S. Ct. 2183 (2020), as well as the United States Court of Appeals for the Federal Circuit's holding in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019), *vacated*, 594 U.S. , 141 S. Ct. 1970 (2021). Employer's Brief at 12-14.

Employer has forfeited this argument by failing to raise it to the ALJ. *See Lucia*, 138 S. Ct. at 2055 (requiring "a timely challenge to the constitutional validity of the appointment of an officer who adjudicates [a party's] case"); *Edd Potter Coal Co. v. Director, OWCP* [*Salmons*], F.4th , No. 21-1623, 2022 WL 2348053, slip op. at 6-7 (4th Cir. June 30, 2022); *Joseph Forrester Trucking v. Director, OWCP* [*Davis*], 987 F.3d 581, 588 (6th Cir. 2021); *Island Creek Coal Co. v. Wilkerson*, 910 F.3d 254, 256 (6th Cir.

[4] This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because the Miner performed his coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); MC Director's Exhibit 3.

[5] *Lucia* involved an Appointments Clause challenge to the appointment of an ALJ at the Securities and Exchange Commission (SEC). The United States Supreme Court held, similar to Special Trial Judges at the United States Tax Court, SEC ALJs are "inferior officers" subject to the Appointments Clause. *Lucia v. SEC*, 585 U.S. , 138 S. Ct. 2044, 2055 (2018) (citing *Freytag v. Comm'r*, 501 U.S. 868 (1991)).

2018). But even if Employer had not forfeited the argument, we would deny it. *Howard v. Apogee Coal Co.*, BLR , BRB No. 20-0229 BLA, slip op. at 3-5 (Oct. 18, 2022).

Responsible Operator

Employer argues the ALJ erred in finding it is the responsible operator. Employer's Brief at 15-24. We disagree.

The responsible operator is the potentially liable operator that most recently employed the miner.[6] 20 C.F.R. §725.495(a)(1). The district director is initially charged with identifying and notifying operators that may be liable for benefits, and then identifying the "potentially liable operator" that is the responsible operator. 20 C.F.R. §§725.407, 725.410(c), 725.495(a), (b). Once the district director designates a responsible operator, that operator may be relieved of liability only if it proves either that it is financially incapable of assuming liability for benefits or that another "potentially liable operator" that is financially capable of assuming liability more recently employed the miner for at least one year. 20 C.F.R. §725.495(c).

The ALJ found Employer meets the regulatory definition of a potentially liable operator. 20 C.F.R. §725.494(a)-(e); Decision and Order at 16. We affirm this finding as unchallenged. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). Nor does Employer allege it is financially incapable of assuming liability for benefits. Thus, it can avoid liability only by establishing that another financially capable operator more recently employed the Miner for at least one year.

Before the ALJ, Employer argued Jeff Coal should have been designated the responsible operator because it employed the Miner more recently for one year and is financially capable of assuming liability. Decision and Order at 16; Employer's Post-Hearing Brief at 10-12. In support of its argument, Employer relied on the Miner's hearing testimony. Employer's Post-Hearing Brief at 10-12; Hearing Transcript at 13, 23-25. The

[6] For a coal mine operator to meet the regulatory definition of a "potentially liable operator," each of the following conditions must be met: a) the miner's disability or death must have arisen at least in part out of employment with the operator; b) the operator or its successor must have been in business after June 30, 1973; c) the operator must have employed the miner for a cumulative period of not less than one year; d) at least one day of the employment must have occurred after December 31, 1969; and e) the operator must be financially capable of assuming liability for the payment of benefits, either through its own assets or through insurance. 20 C.F.R. §725.494(a)-(e).

ALJ found, however, that Employer failed to comply with 20 C.F.R. §725.414(c), which states:

> [A]ll parties must notify the district director of the name and current address of any potential witness whose testimony pertains to the liability of a potentially liable operator or the designated responsible operator. Absent such notice, the testimony of a witness relevant to the liability of a potentially liable operator or the designated responsible operator will not be admitted in any hearing conducted with respect to the claim unless [the ALJ] finds that the lack of notice should be excused due to extraordinary circumstances.

20 C.F.R. §725.414(c). Because Employer did not designate the Miner as a liability witness when this case was before the district director and did not establish extraordinary circumstances for failing to do so, the ALJ found Employer could not rely on the Miner's testimony on the liability issue. Decision and Order at 16-18.

Employer argues the ALJ erred in raising this issue sua sponte because no party requested that the ALJ decline to consider the Miner's testimony as liability evidence. Employer's Brief at 18-19. Contrary to Employer's argument, the ALJ is obligated to enforce the evidentiary limitations. *See Smith v. Martin Cnty. Coal Corp.*, 23 BLR 1-69, 1-74 (2004) (the evidentiary limitations set forth in the regulations are mandatory).

Employer next argues a miner "is always assumed to be a potential witness with information relevant to his work history." Employer's Brief at 18-19. Thus it argues the ALJ should have nevertheless considered the Miner's testimony notwithstanding its failure to comply with 20 C.F.R. §725.414(c). But it does not cite any basis in the Act, regulations, or case law to support this argument. *See Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983); 20 C.F.R. §802.211(b). Thus we reject it. As Employer failed to establish extraordinary circumstances for the ALJ to consider the Miner's testimony on the liability issue, we affirm the ALJ's finding that he was precluded from considering this testimony with respect to whether Jeff Coal should have been named the responsible operator. Decision and Order at 16-18.

Employer next argues the ALJ erred in finding the other evidence of record is insufficient to establish Jeff Coal employed the Miner for one year. Employer's Brief at 19-20. We disagree.

The ALJ acknowledged that the Miner's employment history form and Dr. Forehand's medical report each referenced Jeff Coal. Decision and Order at 16-18; Director's Exhibits 3, 12. He found, however, that the Miner's Social Security Administration (SSA) earnings records "do not reflect earnings" or "show any employment

at Jeff Coal," and the records list Employer "as the last entity to employ [the Miner] over one year." Decision and Order at 16. Thus he permissibly found the Miner's employment history form and Dr. Forehand's medical report not credible on the issue of the Miner's employment with Jeff Coal. *See Tackett v. Director, OWCP*, 6 BLR 1-839, 1-841 (1984) (ALJ may credit SSA earnings records over a miner's testimony and other sworn statements); Decision and Order at 16. Thus we affirm the ALJ's finding Employer failed to establish Jeff Coal more recently employed[7] the Miner for at least one year and his finding Employer is the responsible operator.[8] 20 C.F.R. §725.495(c).

Entitlement to Benefits under 20 C.F.R. Part 718

To be entitled to benefits under the Act, Claimant must establish disease (pneumoconiosis); disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment); and disability causation (pneumoconiosis substantially contributed to the disability). 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Statutory presumptions may assist claimants in establishing the elements of entitlement if certain conditions are met, but failure to establish any of them precludes an award of benefits. *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); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

[7] Contrary to Employer's argument, the Director does not bear the burden of establishing why Jeff Coal is not the responsible operator. Employer's Brief at 15-18. The regulations are clear that once the district director designates a responsible operator, that operator may be relieved of liability only if it proves either that it is financially incapable of assuming liability for benefits or that another "potentially liable operator" that is financially capable of assuming liability more recently employed the miner for at least one year. 20 C.F.R. §725.495(b), (c). As the Director argues, the cases Employer cites in support of its argument involve claims that were filed before the 2001 regulatory revisions. Director's Brief at 13-14, *citing Nat'l Mining Ass'n v. Dep't of Labor*, 292 F.3d 849, 869 (D.C. Cir. 2002); 65 Fed. Reg. 79,920, 80,009 (Dec. 2000).

[8] Employer argues the ALJ erred in finding Jeff Coal is not financially capable of assuming liability. Employer's Brief at 22-24. But the ALJ made no such finding. Moreover, Employer's argument that Jeff Coal is financially-capable is moot given the ALJ's finding that Jeff Coal did not employ the Miner more recently than Employer.

Legal Pneumoconiosis

To establish legal pneumoconiosis,[9] Claimant must prove the Miner had a chronic lung disease or an impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(2), (b).

The ALJ considered the medical opinions of Drs. Forehand and Fino. Dr. Forehand diagnosed a mixed restrictive and obstructive lung disease. Director's Exhibits 12, 13. He also diagnosed a totally disabling pulmonary impairment in the form of hypoxemia. *Id*. He opined both conditions were caused by the Miner's coal mine dust exposure. *Id*. With respect to the mixed restrictive and obstructive lung disease, he opined this condition was caused by a combination of coal mine dust exposure and cigarette smoking. *Id*. Dr. Fino diagnosed idiopathic pulmonary fibrosis unrelated to coal mine dust exposure. Employer's Exhibits 1, 2. The ALJ found Dr. Forehand's opinion well-reasoned, documented, and entitled to significant weight. Decision and Order at 11-12. Conversely, he found Dr. Fino's opinion inadequately explained and inconsistent with the regulations. *Id.* at 12-13. Thus he determined the medical opinion evidence establishes legal pneumoconiosis. *Id.* at 13.

Employer argues the ALJ erred in crediting Dr. Forehand's opinion. Employer's Brief at 28-31. We disagree.

Dr. Forehand diagnosed the Miner's gas exchange impairment based on his arterial blood gas testing and shortness of breath. Director's Exhibit 12 at 13. He diagnosed the mixed obstructive and restrictive lung disease based on the results of the Miner's ventilatory study and shortness of breath. *Id*. He opined the Miner was totally disabled by the insufficient residual gas exchange abnormality evidenced by blood gas testing. *Id*. He specifically explained why both the Miner's gas exchange impairment and mixed obstructive and restrictive lung disease arose out of coal mine employment:

> [The Miner's] exposure to freshly cut silica and coal dust on a regular basis for [seventeen years] working at the face of underground coal mines as a roof bolt operator and scoop operator substantially contributed to his coal workers' pneumoconiosis with impairment of gas exchange by causing an inflammatory

[9] "Legal pneumoconiosis" includes "any chronic lung disease or impairment and its sequelae arising out of coal mine employment." 20 C.F.R. §718.201(a)(2). "Clinical pneumoconiosis" consists of "those diseases recognized by the medical community as pneumoconioses, *i.e.*, the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1).

> reaction in his lungs, leading to fibrosis and scarring and resulting in poor absorption of oxygen. Lungs damaged by exposure to coal mine dust supply less oxygen to the body. [The Miner's] exposure to coal mine dust caused an impairment of gas exchange in excess of an impairment of ventilation, a pattern typical of disabled coal miners. [The Miner's] parallel exposure to cigarette smoke and to freshly cut silica and coal dust on a regular basis for [seventeen years] working at the face of underground coal mines as a roof bolt operator and scoop operator substantially contributed to his mixed restrictive-obstructive lung disease. The effects on [his] lungs of his exposure to cigarette smoke and exposure to coal mine dust on [his] lungs were additive and led to airway damage and mixed restriction and obstruction. Because of the severity of [his] lung disease, I determined that both cigarette smoke and exposure to coal mine dust substantially contributed to his chronic lung disease.

Id. In a supplemental report, Dr. Forehand was asked to address whether he still diagnosed pneumoconiosis based on an assumed coal mine employment history of 6.58 years. Director's Exhibit 13. He reiterated his diagnosis, explaining that the nature of a "coal miner's exposure to coal dust is as important as the length of time he worked in coal mining." *Id*. In regard to the Miner's case, he stated "6.58 years of overexposure to freshly cut silica and coal dust working at the face of a poorly ventilated mine . . . was a sufficient length of time to cause third-stage coal workers' pneumoconiosis." *Id*.

Contrary to Employer's argument, the ALJ permissibly found Dr. Forehand's opinion reasoned and documented on the issue of legal pneumoconiosis.[10] *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 310 (4th Cir. 2012); *Milburn Colliery Co.*

[10] We likewise reject Employer's argument that the ALJ erred by failing to determine the length of the Miner's cigarette smoking history in order to assess the weight given to Dr. Forehand's opinion. Employer's Brief at 28. At the outset, we note Dr. Forehand did not attribute the Miner's hypoxemia to cigarette smoking. Director's Exhibits 12, 13. Further, the ALJ noted the parties "agreed that [the Miner] has a smoking history." Decision and Order at 4 n.5. Dr. Forehand reported at the time of his December 8, 2017 examination that the Miner started smoking in 1977 and currently smoked one-half pack of cigarettes per day; he attributed the Miner's pulmonary impairment in part to cigarette smoking. Director's Exhibit 12. The ALJ permissibly credited Dr. Forehand's opinion with respect to the etiology of the mixed obstructive-restrictive lung impairment because he reasonably found it "consistent with the [Department of Labor's] regulations" that the effects of smoking and coal dust exposure can be additive. Decision and Order at 12; *see* 65 Fed. Reg. at 79,940; *A & E Coal Co. v. Adams*, 694 F.3d 798, 801-02 (6th Cir. 2012); *Crockett Collieries, Inc. v. Barrett*, 478 F.3d 350, 356 (6th Cir. 2007).

v. Hicks, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Decision and Order at 11-12; Employer's Brief at 28-31.

Employer argues Dr. Forehand "never used the expression 'legal pneumoconiosis'" and thus his opinion cannot establish the disease. Employer's Brief at 29. Because Dr. Forehand specifically opined the Miner's coal mine dust exposure "substantially contributed" to his impairment in gas exchange and mixed-obstructive and restrictive lung disease, the ALJ correctly found his opinion constitutes a diagnosis of legal pneumoconiosis. Director's Exhibit 12; *see Consol. Coal Co. v. Williams*, 453 F.3d 609, 622 (4th Cir. 2006) (the ALJ needs only to be persuaded, on the basis of all available evidence, that the miner's lung disease was "significantly related to, or substantially aggravated by" coal mine dust exposure); 20 C.F.R. §718.201(a)(2), (b); Decision and Order at 12.

Employer next argues the ALJ erred in discrediting Dr. Fino's opinion. Employer's Brief at 31-33. We disagree. Dr. Fino noted the "rapid worsening" of the results of the Miner's chest x-rays and computed tomography (CT) scans "is strongly suggestive of idiopathic pulmonary fibrosis," given that the Miner ceased working in the coal mines in the 1990's. Employer's Exhibit 1 at 8-9. The ALJ permissibly found this reasoning contrary to the principle that pneumoconiosis is "a latent and progressive disease which may first become detectable only after the cessation of coal mine dust exposure."[11] 20 C.F.R. §718.201(c); *see Mullins Coal Co. of Va. v. Director, OWCP*, 484 U.S. 135, 151 (1987); *Hobet Mining, LLC v. Epling*, 783 F.3d 498, 506 (4th Cir. 2015) (a medical opinion not in accord with the accepted view that pneumoconiosis can be both latent and progressive may be discredited); Decision and Order at 13. Further, the ALJ permissibly found Dr. Fino did not adequately explain why the Miner's pulmonary fibrosis is not significantly related to, or substantially aggravated by, coal mine dust exposure. *Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; 20 C.F.R. §718.201(a)(2), (b).

Employer argues Dr. Fino's opinion is more reasoned and documented than Dr. Forehand's opinion. Employer's Brief at 28-33. Its argument amounts to a request to reweigh the evidence, which we are not empowered to do. *Anderson*, 12 BLR at 1-113. Because it is based on substantial evidence, we affirm the ALJ's determination that

[11] Dr. Fino based his opinion on the "rapidity of progression" on radiographic images between 2017 and 2018 but acknowledged "it would be extremely helpful" to review any available images before 2017 to see if "there is evidence of coal mine dust in the previous records or on any chest X-rays or CT scans or if there is a long clinical course." Employer's Exhibit 1 at 8, 12.

Claimant established legal pneumoconiosis through Dr. Forehand's opinion.[12] 20 C.F.R. §718.202(a).

Disability Causation

Finally, the ALJ considered whether Claimant established the Miner's pneumoconiosis was a "substantially contributing cause" of his totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Pneumoconiosis is a substantially contributing cause if it has "a material adverse effect on the miner's respiratory or pulmonary condition" or "[m]aterially worsens a totally disabling respiratory or pulmonary impairment which is caused by a disease or exposure unrelated to coal mine employment." 20 C.F.R. §718.204(c)(1)(i), (ii); *Robinson v. Pickands Mather and Co.*, 914 F.2d 35 (4th Cir. 1990).

The ALJ credited Dr. Forehand's opinion that the Miner's totally disabling respiratory impairment was due to legal pneumoconiosis, over the contrary opinion of Dr. Fino. 20 C.F.R. §718.204(c); Decision and Order at 14-15. We disagree with Employer's argument that the ALJ erred in making this finding. Employer's Brief at 33-34.

The ALJ correctly found Dr. Forehand's opinion establishes total disability due to legal pneumoconiosis. Decision and Order at 14-15. As discussed above, Dr. Forehand opined the Miner's coal mine dust exposure "substantially contributed" to his totally disabling hypoxemia. Director's Exhibits 12, 13. Thus he opined that the totally disabling lung impairment constitutes legal pneumoconiosis and was *the* cause of the Miner's total disability. *Collins v. Pond Creek Mining Co.*, 751 F.3d 180, 186-87 (4th Cir. 2014) (death causation satisfied where the court found the miner's chronic obstructive pulmonary disease (COPD) constituted legal pneumoconiosis and all medical experts agreed COPD contributed to the miner's death); *see Energy West Mining Co. v. Dir., OWCP*, 49 F.4th 1362, 1369 (10th Cir. 2022); *Island Creek Ky. Mining v. Ramage*, 737 F.3d 1050, 1062 (6th Cir. 2013) (where all the medical experts agreed COPD caused the miner's total

[12] We reject Employer's argument that the ALJ's legal pneumoconiosis finding does not satisfy the explanatory requirements of the Administrative Procedure Act (APA), 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a). Employer's Brief at 28. As discussed above, the ALJ found Dr. Forehand's reasoned and documented diagnosis of legal pneumoconiosis outweighs the unpersuasive opinion of Dr. Fino that the Miner does not have the disease. *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 316 (4th Cir. 2012) (if a reviewing court can discern what the ALJ did and why he did it, the duty of explanation under the APA is satisfied); *Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 762 n.10 (4th Cir. 1999).

disability, the legal pneumoconiosis inquiry "completed the causation chain from coal mine employment to legal pneumoconiosis which caused [the miner's] pulmonary impairment that led to his disability"); *Hawkinberry v. Monongalia Cnty. Coal Co.*, 25 BLR 1-249, 255-56 (2019); 20 C.F.R. §718.204(c).

The ALJ rationally discredited Dr. Fino's opinion regarding the cause of the Miner's total disability because he failed to diagnose legal pneumoconiosis, contrary to the ALJ's finding that Claimant established the Miner had the disease. *See Epling*, 783 F.3d at 504-05, *citing Toler v. E. Assoc. Coal Corp*., 43 F.3d 109, 116 (4th Cir. 1995); Decision and Order at 14-15.

Because it is supported by substantial evidence, we affirm the ALJ's finding that Claimant established total disability due to legal pneumoconiosis through Dr. Forehand's opinion.[13] 20 C.F.R. §718.204(c). Consequently, we affirm the ALJ's finding that Claimant established entitlement under 20 C.F.R. Part 718 and affirm the award of benefits.

[13] Because we affirm the ALJ's finding that the Miner was totally disabled due to legal pneumoconiosis, we need not address Employer's argument that the ALJ erred in finding clinical pneumoconiosis established. *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge