

Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: October 18, 2019

CLAIM NO. 201602840

ANTHONY WAYNE JORDAN

PETITIONER

VS.

APPEAL FROM HON. JOHN B. COLEMAN,
ADMINISTRATIVE LAW JUDGE

JIM BEAM and
HON. JOHN B. COLEMAN,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

OPINION
AFFIRMING

* * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

ALVEY, Chairman. Anthony Wayne Jordan (“Jordan”) appeals from the May 3, 2019 Opinion and Order rendered by Hon. John B. Coleman, Administrative Law Judge (“ALJ”). The ALJ dismissed Jordan’s claim for multiple conditions allegedly caused by an altitude change he experienced while flying from Miami, Florida to Milan, Italy in the course of his employment with Jim Beam (“Beam”). Jordan also appeals from the June 3, 2019 Order denying his petition for reconsideration.

On appeal, Jordan argues the ALJ erred in dismissing his claim. He argues the ALJ erred by requiring him to prove his claim with objective medical evidence, which is not required. He also argues the flight to Italy was capable of constituting a traumatic event as defined by the Kentucky Workers' Compensation Act. He additionally argues Dr. Todd Rozen's diagnosis was based upon objective medical evidence. Because substantial evidence supports the ALJ's determination, and a contrary result is not compelled, we affirm.

Jordan filed a Form 101 on December 23, 2016 alleging he developed severe headaches, loss of motor skills, dizziness, and fatigue due to the rapid descent of a flight from Miami, Florida to Milan, Italy. Jordan began working for Beam on May 15, 2007 in distillery maintenance. Prior to that, he worked for multiple manufacturing facilities both in maintenance and as an equipment operator.

Jordan testified by deposition on February 20, 2017, and again on November 29, 2018. He also testified at the hearing held March 8, 2019. Jordan was born on April 8, 1971, and he currently resides in Georgetown, Kentucky. He is a high school graduate, and has a degree in industrial machine technology from Bluegrass Community and Technical College.

Jordan began working for Beam in 2007 as a bottle and maintenance mechanic. On June 4, 2016, he and some of his co-workers flew to Italy to inspect and evaluate some machinery Beam was interested in purchasing. He testified he had no problem on the flight from Louisville to Miami. He reported that on the flight to Milan, turbulence was encountered and the airplane was forced to descend ten thousand feet. He testified he immediately developed a headache, which did not

resolve with taking Ibuprofen. He developed problems with remembering things, and remained extremely sleepy. At his initial deposition, Jordan reported he continued to experience headaches and dizziness. He also reported a mosquito bit him while he was in Italy. He admitted that prior to the trip he was under stress due to child visitation issues. He did not recall treating for dizziness in the past. He also testified he has had problems with vision in his right eye since he was a child.

Jordan testified that he was ill during the entire trip to Italy. When he returned from the trip, he worked the remainder of the week. On Friday evening, he visited some friends at a campground, and began feeling worse. By Saturday evening, he felt his headache, dizziness, light-headedness, loss of balance, and fatigue had worsened to the point that he sought treatment at the emergency room in Georgetown. He never returned to work at Beam. He admitted he actually experienced fatigue before going on the trip to Italy.

On November 29, 2018, Jordan testified he had started family counseling regarding visitation with his daughters the day before he left for Italy. He again described the turbulence he experienced. He testified he was seated in first class, near his co-workers, on the flight. He also testified he still had a bad headache when they reached Milan, and he became carsick during the two and a half hour drive to the equipment location. He additionally testified that on the date of his second deposition he was still light-headed, tired, fatigued, and experienced blurry vision, memory problems, and headaches two to four times per week. He stated headlights at night bother him, and he can no longer drive.

At the March 8, 2019 hearing, Jordan testified that he is no longer able to work, and he draws Social Security disability benefits. He testified his problems stem from the instant headache, which began with the turbulence experienced on the flight. He stated he could not get his ears to pop after the flight. He additionally testified that he continued to have problems with headaches, concentration, fatigue, and dizziness after he returned from the trip, and he had to go to the hospital the following Saturday due to a pounding headache and loss of vision. He reported he continues to have problems with balance, stair climbing, dizziness, and short-term memory loss. He also stated he is unable to return to work at Beam due to the inability to stoop, lift, and work overhead. He stated he takes antidepressants, and Dr. Rozen's treatments have not provided any lasting relief.

Patrick Toth ("Toth"), Joe Brandenburg ("Brandenburg"), and Robert Samuel Clawson, Jr. ("Clawson") all testified by deposition on March 21, 2017. These individuals worked with Jordan, and accompanied him on the trip to Italy.

Toth testified Jordan was a good mechanic, but he rarely worked with him. He was unaware of any issues Jordan may have had with his job. Likewise, he testified he really knew nothing about Jordan's personal life. He testified there were no problems on the trip to Italy except for missing the connector flight from Miami to Louisville. He did not recall the plane making a large drop or descent due to turbulence. He also testified Jordan did not tell him about any problems with dizziness, fatigue, or headaches on the trip. He stated Jordan appeared to be "on top of his game" in Italy. He did not observe Jordan to appear to have any physical distress on the trip.

Brandenburg is a Quality Manager at Beam. He stated Jordan was the mechanic on A-line. He worked with Jordan during the entire eight years he was employed there, although not on a daily basis. Jordan accompanied the team on the trip due to his expertise with the equipment Beam intended to purchase. He testified the flights both ways were smooth except for the missed connection in Miami on the return leg of the trip. He stated there were no issues with turbulence. He stated Jordan made no complaints except that one night he mentioned he had a headache and retired early. Jordan did not report any problems or complaints while inspecting the equipment. He did not notice Jordan having any problems on the trip. One night Jordan did not want to go out to dinner with the team, stating he was tired and wanted to call his wife. Other than the headache one evening, Jordan did not report any physical problems.

Clawson is a Quality Engineer at Beam. He worked with Jordan regarding raw material issues, including bottles, caps, labels, boxes, etc. He stated Jordan is not very talkative. He testified there was nothing unusual about the flights on the trip. He did not recall much turbulence, or dropping to a lower level. He worked closely with Jordan in Italy. Jordan did not advise him of any problems or complaints. Jordan never mentioned headaches or dizziness to him. Nothing seemed out of the ordinary.

Beam also filed records from the Federal Aviation Administration (“FAA”). Those records indicate there is no record of Jordan’s flight experiencing an unscheduled altitude adjustment due to turbulence.

In support of his claim, Jordan filed records from the Mayo Clinic in Jacksonville, Florida. Those records include the October 28, 2016 note from Dr. Michele Tulag who noted Jordan had undergone lab studies, a CT-scan of the temporal bone, and a head MRA. She noted he had a severe diffuse visual field loss possibly related to a severe ocular disease process. She also noted he had moderate depression, helped with taking Cymbalta. Dr. Tulag recommended Jordan switch to decaffeinated beverages to manage his headaches. He reported drinking four to five teas, and two to three sodas daily.

In a letter dated October 10, 2017, Dr. Rozen noted Jordan had treated for New Daily Persistent Headache Syndrome (“NDPH”). Dr. Rozen attributed this condition to abnormal resetting of Jordan’s cerebro spinal fluid. Jordan also filed Dr. Rozen’s October 27, 2016 note. Dr. Rozen, a neurologist at the Mayo Clinic, noted Jordan complained of ongoing fatigue since a June 4, 2016 business trip to Italy. Jordan reported he was bitten by a mosquito in Italy and developed fatigue the following day. On the trip, Jordan began experiencing headaches, confusion, brain fog, visual changes, and fatigue. Jordan worked for four days after returning from the trip, and then treated at the emergency room. Dr. Rozen diagnosed Jordan with vertigo, seizures, high frequency hearing loss, mild cognitive impairment, and headaches. Additional testing performed on the same date indicated no evidence of vestibular dysfunction or vestibulopathy. Audiometric testing revealed some noise induced hearing loss. August 2, 2016 cognitive testing demonstrated Jordan had problems with attention, processing speed, and learning efficiency.

Dr. Rozen testified by deposition on November 16, 2017. Dr. Rozen noted he was not provided with much in the way of initial treatment records when he first saw Jordan on October 27, 2016. He noted a head MRI revealed elevated fluid in the posterior fossa. He noted Jordan reported he began feeling ill on a flight to Italy in June 2016. Jordan reported he felt tired, had increased ear pressure, developed a sudden headache, had dizziness, and experienced daily headaches afterward. Dr. Rozen additionally noted Jordan reported he began feeling ill prior to boarding the flight from Miami to Italy.

Dr. Rozen noted that normal spinal fluid pressure varies from person to person. What may be normal for one may not be normal for others. He noted that Jordan reported subjective relief from his headaches and dizziness from taking Diamox. Dr. Rozen was not provided with any records from psychiatric testing. He stated that chronic fatigue, as reported by Jordan, is a rheumatologic process. He stated that within reasonable medical probability he could not determine the flight caused Jordan's condition. He stated he had also referred Jordan to Johns Hopkins for additional testing.

Jordan additionally filed the December 21, 2016 records from the University of Kentucky Neuroscience Institute. Those records reflect Jordan's complaints with balance, dizziness, muscle weakness, history of depression, and headaches. The records noted that clarification of the causation of his symptoms is "challenging".

Dr. James Owen evaluated Jordan on April 5, 2017. Dr. Owen did not provide a diagnosis, but he determined Jordan's condition was caused by

increased intracranial pressure, or altitude sickness. Dr. Owen stated Jordan does not have the capacity to return to his previous work. He found Jordan had reached maximum medical improvement, and assessed an 11% impairment rating pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment (“AMA Guides”). Dr. Owen recommended a twenty-pound lifting restriction, and advised that Jordan should avoid climbing.

Jordan also filed records from Baptist Health Lexington. The records reflect that Jordan was seen for complaints of impaired functional mobility, balance, gait, and endurance. Jordan complained of dizziness and fatigue, and stated a steroid trial provided no improvement. The March 3, 2017 records from the same facility noted Jordan had complained of dizziness since June 4, 2016. He was diagnosed with dizziness, fatigue, and headaches.

Dr. John Gilbert evaluated Jordan on September 14, 2018. In his Form 107-I report, Dr. Gilbert noted Jordan complained of developing a headache and nausea while on an international flight. Dr. Gilbert diagnosed Jordan with “pseudotumor cerebri, chronic headaches, gait, station, mobility dysfunction, arousal disorder, difficulties with activities of daily living, progressive visual problems in the left eye, balance dysfunction, and chronic pain.” He opined those problems were caused by the work event. Dr. Gilbert assessed a 37% impairment rating pursuant to the AMA Guides, of which he attributed 20% to gait/station issues, 9% to daytime sleep/arousal disorder, and 14% due to his mental status. Dr. Gilbert determined Jordan does not retain the physical capacity to return to his job at Beam.

Dr. Gilbert testified by deposition on November 21, 2018. He stated Jordan had underlying asymptomatic pseudotumor cerebri, which became symptomatic due to an air flight. He reiterated the 37% impairment rating. He stated the flight did not cause the pseudotumor, but it aroused it from an asymptomatic state.

Dr. Christopher Allen, Ph.D., performed a psychological evaluation on September 12, 2018. In his Form 107-P, Dr. Allen diagnosed Jordan with mild neurocognitive disorder due to another medical condition (normal pressure hydrocephalus), and an unspecified depressive disorder. He assessed a 10% impairment rating based upon the AMA Guides. He attributed Jordan's diagnoses to the sudden pressure changes experienced on the flight to Italy.

Jordan additionally filed records from the Georgetown Community Hospital for treatment he received on June 18, 2016. The records reflect a diagnosis of "dizziness". Jordan reported that he had flown out of the country for business on June 4, 2016, and he has not felt normal since. On the date of treatment, Jordan reported dizziness and the inability to get his thoughts together.

Dr. David Shraberg performed a neuropsychiatric evaluation at Beam's request on May 9, 2017. Jordan reported chronic headaches, dizziness, memory loss, visual difficulty, and problems with endurance he related to undocumented turbulence while flying to Italy. Dr. Shraberg found no evidence of sudden, severe decompression causing an injury. Regarding the 11% impairment rating Dr. Owen assessed, Dr. Shraberg stated, "Dr. Owen appears to either lack the clinical courage or insight and knowledge to diagnose a psychosomatic and/or

factitious illness when it is obvious.” Dr. Shraberg determined Jordan has a psychosomatic disorder due to a variety of psychosocial issues unrelated to his trans-Atlantic flight. He diagnosed Jordan with psychosomatic functional neurological symptom disorder, congenital blindness, and no evidence of a physical or emotional injury. He determined Jordan did not sustain a work injury, and has no impairment rating due to the alleged work event.

Beam also filed Dr. Rozen’s records from March 2017. On March 8, 2017, Dr. Rozen saw Jordan for a follow-up regarding headaches, persistent dizziness, balance issues, and fatigue. An ENT/Neurology evaluation was negative, and showed no evidence of spinal fluid leakage. An MRA performed October 28, 2016 was reported as normal. On March 28, 2017, Jordan complained of persistent headaches and dizziness, in part, due to spinal fluid pressure. Dr. Rozen diagnosed Jordan with extreme fatigue, headache, seizure (NOS), amblyopia, blurred vision, mild cognitive impairment, general weakness, disequilibrium, high frequency hearing loss, hyperacusis, tinnitus and vertigo.

Beam additionally filed records from Baptist Health Lexington for treatment Jordan received from July 1, 2016 through January 23, 2017. The July 11, 2016 note reflects Jordan reported social stress of six months duration due to child custody issues. Jordan reported multiple symptoms including severe fatigue/malaise beginning in May 2016. Jordan complained of debilitating fatigue, myalgias, headaches, poor concentration, and generalized weakness.

Dr. David Randolph, an occupational medicine physician, evaluated Jordan at Beam’s request on June 5, 2017. Dr. Randolph determined Jordan has a

psychiatric condition consistent with a somatoform disorder and anxiety. He noted that his co-workers who accompanied him on the trip did not corroborate Jordan's history of a descent of ten thousand feet on the flight to Italy. He found no support in the medical records of injury or tissue damage. Dr. Randolph determined that Jordan has no impairment rating because he did not sustain a work injury. He specifically disagreed with Dr. Owen's assessment. Dr. Randolph stated he agreed with Dr. Shraberg's opinions regarding diagnosis, causation, and impairment. He did not recommend imposing any restrictions, and found no additional treatment is required. Dr. Randolph stated Jordan's subjective complaints are inconsistent with the objective findings.

Dr. Daniel Wolens, an occupational and environmental medicine physician, performed a records review at Beam's request, and issued a report on June 13, 2017. Dr. Wolens stated the more than eight hundred pages of medical records he reviewed do not contain any objective findings accounting for Jordan's illness. He noted that none of the information contained in the record supports Jordan's claim that the rapid descent of the aircraft accounts for his condition. He stated Dr. Owen's opinions are inconsistent with the physiology and are not credible. Dr. Wolens stated Jordan's clinical presentation is classical for myalgic encephalomyelitis. Dr. Wolens noted Jordan reported similar symptoms prior to the flight to Italy, and in fact he had advised at least one medical provider the symptoms began in May 2016. Dr. Wolens diagnosed Jordan with idiopathic intracranial hypertension. Dr. Wolens noted Jordan has a history of symptoms consistent with a

psychosomatic disorder, and there is no evidence of a “harmful change to the human organism evidenced by objective medical findings.”

In a follow-up report dated June 8, 2018, Dr. Wolens noted he had reviewed additional medical records, including a brain MRI performed February 20, 2018, which he stated was normal. He also reviewed records from Johns Hopkins indicating Jordan’s intracranial pressure was within normal limits. Dr. Wolens opined that since there was no increase in intracranial pressure, that was not the source of Jordan’s headaches.

Beam filed additional reports from Dr. Wolens dated October 10, 2018 and December 13, 2018. Dr. Wolens stated Dr. Gilbert’s opinions were not supported by the medical documentation. Dr. Wolens stated that Dr. Allen incorrectly assumed Jordan was subjected to a sudden barometric change without any factual basis to support this assumption. He noted Dr. Gilbert was unaware that Jordan’s spinal fluid pressure was measured as normal. Dr. Wolens stated, “Dr. Gilbert does not provide any supporting information by which he reaches that conclusion. Therefore, his diagnosis is based on a grossly limited set of data and reaches a conclusion of causation without demonstrating understanding of the exposure.”

Dr. Wolens testified at the hearing held March 8, 2019. Dr. Wolens is a former helicopter pilot, and is a certified FAA medical examiner. He testified Jordan’s studies do not support the assertion that he experienced intracranial pressure changes. He stated there is no reason to believe that Jordan had a sudden headache caused by increased intracranial pressure. He noted that Jordan was

sufficiently able to perform his work in Italy, and for the remainder of the week after he returned home. Dr. Wolens noted that the reported mosquito bites had no impact on Jordan's condition. Dr. Wolens explained the function of the airplane pressurization system and that even if there had been a decrease in altitude, it would not have affected Jordan. Dr. Wolens opined Jordan might have chronic fatigue syndrome, neither caused nor aggravated by his work at Jim Beam. Dr. Wolens stated the evidence established Jordan's symptoms pre-dated his flight to Italy, and some existed for up to two years.

Dr. Susan Monahan evaluated Jordan as part of his claim for Social Security disability benefits on January 25, 2017. She diagnosed Jordan with dizziness, weakness, and imbalance of unclear etiology. Jordan complained of problems with fatigue, balance disturbance, and vision persisting for over six months. She stated emotional problems contribute to Jordan's symptoms and function limitations, including anxiety and depression. She opined Jordan was unable to return to his job at Beam.

A Benefit Review Conference was held on January 3, 2019. The issues preserved for determination included benefits per KRS 342.730, work-relatedness, causation, liability for medical expenses, injury as defined by the Act, TTD, Daubert objections to expert medical witness, and whether Jordan retains the capacity to return to the type of work performed on the date of the injury.

The ALJ rendered a decision on May 3, 2019 dismissing Jordan's claim. The ALJ extensively reviewed the evidence and determined Jordan did not establish he sustained a work-related injury or condition. He noted Jordan's co-

workers and the records from the FAA did not corroborate the assertion of a sudden altitude adjustment or change in cabin pressure. The ALJ cited to Dr. Wolens' testimony regarding cabin pressure changes on commercial flights. The ALJ stated he was not convinced that Jordan's condition resulted from a change in altitude during the course and scope of his work with Beam. The ALJ also noted the medical records reflect that Jordan's symptoms began in May 2016, before his trip to Italy. The ALJ determined that although Jordan presented theories regarding how his current condition is related to his work activities, he was not "persuaded that the plaintiff has proven that his condition is the result of a traumatic work event by objective medical evidence. Given the fact that the plaintiff bears the burden of proof to do so, his claim for benefits must be dismissed."

Jordan filed a petition for reconsideration requesting additional findings of fact regarding the medical records from Dr. Rozen and the Mayo Clinic. Jordan also requested additional findings of fact and a new determination regarding increased intracranial pressure/CSF levels, and whether those support the finding of an injury as defined by KRS 342.0011(1). Jordan also requested additional findings regarding whether he was subjected to an increase in altitude from sea level, and whether this constituted a traumatic event. Jordan additionally requested additional findings regarding whether the flight caused increased CSF/intracranial pressure, and whether that was sufficient to cause his condition. Jordan additionally requested a finding regarding whether the flight was a substantial contributing factor to causing his condition.

The ALJ issued an order denying the petition on June 3, 2019. The ALJ again explained the basis for his decision. In denying the petition, the ALJ stated, “Therefore, simply put, the ALJ has not been convinced the plaintiff suffers from a condition connected to his work with the defendant.” The ALJ also stated, “After once again considering the entirety of the medical evidence, the ALJ remains unconvinced the plaintiff suffers from an injury or condition causally related to his work with the defendant. As such, the petition for reconsideration is denied.”

On appeal, Jordan argues causation does not need to be proven by objective medical evidence. He argues the flight was capable of constituting a traumatic event per the definition of injury contained in KRS 342.0011(1). He additionally argues Dr. Rozen’s diagnosis was based upon objective medical evidence. Jordan argues the ALJ’s conclusions were based upon erroneous findings that warrant a remand of the claim for additional findings of fact and conclusions of law.

Jordan had the burden of proving each of the essential elements of his claim, including whether he sustained an “injury” as defined by the Act, and the work-relatedness/causation of his condition. Durham v. Peabody Coal Co., 272 S.W.3d 192, 195 (Ky. 2008); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Because Jordan was unsuccessful in his burden, the question on appeal is whether the evidence compels a different result. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). “Compelling evidence” is defined as evidence that is so overwhelming, no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985). The function of the

Board in reviewing the ALJ's decision is limited to a determination of whether the findings made by the ALJ are so unreasonable under the evidence they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

As fact-finder, the ALJ has the sole authority to determine the weight, credibility and substance of the evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). Similarly, the ALJ has the sole authority to judge all reasonable inferences to be drawn from the evidence. Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997); Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979). An ALJ is vested with broad authority to decide questions involving causation. Dravo Lime Co. v. Eakins, 156 S.W.3d 283 (Ky. 2003). The ALJ may reject any testimony and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000); Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999). Mere evidence contrary to the ALJ's decision is not adequate to require reversal on appeal. Id. In order to reverse the decision of the ALJ, it must be shown there was no substantial evidence of probative value to support his decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

We also acknowledge that an ALJ has wide-ranging discretion in reaching his or her decision. Seventh Street Road Tobacco Warehouse v. Stillwell, 550 S.W.2d 469 (Ky. 1976); Colwell v. Dresser Instrument Div., 217 S.W.3d 213, 219 (Ky. 2006). KRS 342.285 designates the ALJ as the finder of fact, and he/she is granted the sole discretion in determining the quality, character, and substance of

evidence. Paramount Foods, Inc. v. Burkhardt, 695 S.W.2d 418 (Ky. 1985). Likewise, the ALJ, as fact-finder, may choose whom and what to believe and, in doing so, may reject any testimony and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same party's total proof. Caudill v. Maloney's Discount Stores, 560 S.W.2d 15, 16 (Ky. 1977); Pruitt v. Bugg Brothers, 547 S.W.2d 123 (Ky. 1977).

The Board, as an appellate tribunal, may not usurp an ALJ's role as fact-finder by superimposing its own appraisals as to the weight and credibility to be afforded the evidence or by noting reasonable inferences could otherwise have been drawn from the record. Whittaker v. Rowland, *supra*. As long as the ALJ's ruling with regard to an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, *supra*.

We begin by noting Jordan argues on appeal that the ALJ misunderstood the evidence, and likewise improperly found he failed to prove his claim. We note that both Jordan and Beam filed extensive evidence in the record. The ALJ's decision demonstrates he clearly reviewed the evidence, and its ramifications. The ALJ's dismissal of the claim was based upon his review and understanding of the evidence, and we discern no error.

Dr. Wolens' opinions constitute substantial evidence upon which the ALJ could rely in dismissing Jordan's claim, and a contrary result is not compelled. If "the physicians in a case genuinely express medically sound, but differing opinions as to the severity of a claimant's injury, the ALJ has the discretion to choose which physician's opinion to believe." Jones v. Brasch-Barry General Contractors, 189

S.W.3d 149, 153 (Ky. App. 2006). Although Jordan may be able to point to evidence supporting a different outcome than reached by an ALJ, such proof is not an adequate basis to reverse on appeal as long as substantial evidence supports the ALJ's ultimate determination. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). We additionally note the ALJ sufficiently addressed the issues raised by Jordan in denying his petition for reconsideration.

Accordingly, the May 3, 2019 Opinion and Order dismissing Jordan's claim, and the June 3, 2019 Order on petition for reconsideration rendered by Hon. John B. Coleman, Administrative Law Judge, are hereby **AFFIRMED**.

ALL CONCUR.

DISTRIBUTION:

COUNSEL FOR PETITIONER:

LMS

HON THOMAS G POLITES
309 NORTH BROADWAY
LEXINGTON, KY 40508

COUNSEL FOR RESPONDENT:

LMS

HON C PATRICK FULTON
1315 HERR LANE, STE 210
LOUISVILLE, KY 40222

ADMINISTRATIVE LAW JUDGE:

LMS

HON JOHN B COLEMAN
657 CHAMBERLIN AVE
FRANKFORT, KY 40601