

Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: March 1, 2019

CLAIM NO. 200896990

YELVINGTON FIRE DEPARTMENT

PETITIONER

VS. APPEAL FROM HON. JONATHAN R. WEATHERBY,
ADMINISTRATIVE LAW JUDGE

STEVEN MATTINGLY and
HON. JONATHAN R. WEATHERBY,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

OPINION
VACATING & REMANDING

* * * * *

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

ALVEY, Chairman. Yelvington Fire Department (“Yelvington”) appeals from the Opinion, Award and Order rendered October 3, 2018, by Hon. Jonathan R. Weatherby, Administrative Law Judge (“ALJ”). The ALJ found Steven Mattingly (“Mattingly”) permanently totally disabled due to injuries he sustained in a work-related accident when he was struck by a motor vehicle on December 22, 2007. The ALJ awarded temporary total disability (“TTD”) benefits from December 22, 2007

through July 6, 2011, permanent total disability (“PTD”) benefits, and medical benefits. Yelvington also appeals from the November 6, 2018 Order¹ denying its petition for reconsideration.

On appeal, Yelvington argues the ALJ erred in finding Mattingly sustained work-related injuries to his low back, SI joint, right shoulder, and neck. Yelvington also argues the ALJ erred in finding Mattingly permanently totally disabled. We vacate the ALJ’s determinations regarding Mattingly’s low back, SI joint, right shoulder and neck, and remand for additional findings to support his determination of work-related injuries to those body parts. We additionally vacate the ALJ’s award of PTD benefits, and remand for a determination based solely on the injuries supported by the record. We make no determination regarding whether Yelvington is entitled to PTD benefits, and the ALJ may make any award supported by the evidence of record.

On October 6, 2014, Mattingly filed a Form 101 alleging he injured his right knee, right shoulder, left shoulder, left arm, right hip, head, neck and back, along with difficulties to his vision, when he was struck by a motor vehicle while directing traffic at the scene of a fire. The Form 104 filed in support of the claim indicates Mattingly served as a volunteer firefighter from the early 1990’s until the accident. His work history also includes working as a safety patrolman for the Kentucky Transportation Cabinet at the time of the accident. His employment history additionally includes work as a security guard, emergency medical technician

¹ Although the order bears the date of October 6, 2018, that was prior to the filing of the Petition for Reconsideration by Yelvington. LMS reflects the order was filed on November 6, 2018.

("EMT"), rental equipment deliverer, line worker for manufacturers, and as a dispatcher for an ambulance service. Mattingly is a high school graduate, and he took courses at the local technical college to obtain his certification as an EMT.

Mattingly testified by deposition on August 29, 2017, and again at the hearing held August 6, 2018. He was born on September 17, 1967. He testified his first job was on a manufacturing line at a factory in Owensboro, Kentucky, but he left work there after a few months due to pneumonia. He next worked as an EMT for a local ambulance service, and later became the communications supervisor in charge of 911 dispatch. He left that job to work for a security company where he supervised seven security guards. That job entailed scheduling and completing forms in addition to his work as a guard. He later worked for the Kentucky Transportation Cabinet where his job was safety patrol/motor assist. This required him to provide mechanical and medical assistance to motorists, and removal of road debris, including animal carcasses. He began that job in November 2007. He also testified he began as a volunteer firefighter in 1992 where he assisted with fighting fires, and served as an EMT.

On December 22, 2007, Mattingly had completed his job that day for the Kentucky Transportation Cabinet. He met his wife to pick up a trampoline for his children. On the way home, he received notification of a structure fire to which he responded. Since he was already wearing a reflective suit due to his job as a safety patrolman, he was asked to block traffic. As he was going to his vehicle to obtain a flashlight and to deploy highway flares, he was struck by a motor vehicle.

He remembers nothing else from the scene of the accident. He next remembered going home from the hospital in Owensboro where he was treated for a few days.

Mattingly testified he has treated with multiple medical providers for the injuries he sustained in the accident. He experienced a broken right leg, left shoulder injuries, a torn bicep, right hip injuries, a facial fracture, and right shoulder injuries from the accident. He has undergone three left shoulder surgeries, at least one right shoulder surgery, and two right hip surgeries. His primary treating physician is Dr. Jeremy Bradley, his family physician. He also treated with Dr. Eric Davis, D.C., which did not provide much relief. Dr. Cyna Khalily performed surgery on his shoulders, right hip and right knee. Dr. Alan Mullins operated on his foot to remove a staph infection. Dr. Darren Petty performed additional right shoulder surgery, and injections to his right knee. Dr. Keith Moore operated on his right knee. He has seen Dr. Chris Shafer and Dr. Michael Sowell, both neurologists. He treated with Dr. Matthew Taylor for facial fractures, and later for a ringing sensation in his ears. He has also seen Dr. Michael Mayron. He additionally saw Dr. Richard Edelson for his mental stability, on referral from Dr. Bradley. He also saw Dr. Thomas Byrd. He was also evaluated by Dr. Robert P. Granacher, Jr. and Dr. Gregory Gleis.

Mattingly testified he currently experiences right knee instability, right shoulder problems, as well as creaking and popping in his left shoulder, with the sensation that it is trying to pop out of the socket. He testified he also has aches in the top of his left arm. He has problems with his right hip including pain, and the sensation it is going to pop out of joint. He also experiences occasional low back

pain into his left leg. He also experiences daily headaches. He testified he had never experienced those problems prior to the work accident. He additionally noted he began having low back problems while performing physical therapy. He has had to alter his sitting style due to his right hip and low back pain. He also has some memory loss.

Mattingly stated he would be unable to return to either his work with the Transportation Cabinet or as a volunteer firefighter due to his physical problems. He would have difficulty providing assistance or lifting debris from the roadway due to his inability to lift, stoop, or bend, and he has difficulty driving due to vision problems. He does not believe he retains the capacity to perform any of his pre-injury jobs.

In support of his claim, Mattingly filed Dr. Byrd's September 23, 2014 report. Dr. Byrd assessed a 5% impairment rating for Mattingly's left hip injury pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides").

Mattingly also filed Dr. Gleis' report dated January 23, 2012. Dr. Gleis noted Mattingly was a pedestrian who was struck by an automobile on December 22, 2007 who suffered multiple injuries. He noted the history of loss of consciousness and concussion, right tibial plateau fracture, right infra-orbital facial fracture, right hip injury, and left shoulder injury, all due to the work injury. Dr. Gleis opined Mattingly's low back, right shoulder, and neck complaints are not work-related. He declined to render an opinion regarding Mattingly's skin lesions or head injury since these are outside his area of expertise. Based upon the left

shoulder, right knee, and right hip, he assessed a 17% impairment rating pursuant to the AMA Guides.

Mattingly additionally filed Dr. Granacher's report dated December 15, 2009, from an evaluation he performed on December 3 and 4, 2009. Dr. Granacher diagnosed Mattingly with a cognitive disorder due to blunt force head trauma occurring on December 22, 2007. He found Mattingly had reached maximum medical improvement ("MMI"). He assessed a 10% impairment rating pursuant to the AMA Guides, 2nd Edition, for the cognitive disorder.

Mattingly subsequently filed Dr. Mayron's May 18, 2015 report. Dr. Mayron noted the history of traumatic brain injury along with fractured right leg, migraine headaches, tinnitus, and dizziness. He diagnosed Mattingly with post-traumatic sensory seizure disorder and post-traumatic migraines. In his May 8, 2018 note, Dr. Mayron diagnosed post-traumatic sensory seizures, migraines and optic neuropathy along with intractable migraines. On June 7, 2018, he also noted Mattingly has tinnitus.

Mattingly also filed Dr. Bradley's July 14, 2017 record. Dr. Bradley stated he has been Mattingly's primary care physician for a number of years. He noted the December 22, 2007 accident. Dr. Bradley noted Mattingly has treated with a number of specialists for orthopedic injuries he sustained in the work accident. He has primarily treated Mattingly's amnesia disorder which is a direct result of the accident. He noted Mattingly's memory loss also impacts his ability to assimilate new information. He noted Mattingly also has difficulty concentrating for any lengthy period. He is unable to return to work where there is any significant noise,

vibration, or bright lights. He also noted Mattingly should not be exposed to heights, and has developed tinnitus.

Mattingly filed Dr. Daniel Weinberg's October 30, 2017 report. Dr. Weinberg diagnosed Mattingly with traumatic optic neuropathy. He stated this resulted in a Class 3 whole person impairment, which he determined was 46% based upon the AMA Guides for his vision/optical condition.

Mattingly also filed Dr. Khalily's October 12, 2008 report. He recommended additional right shoulder surgery. He stated Mattingly will have a functional impairment rating for the right knee, right hip and left shoulder, but he was unable to determine the ratings at that time. He additionally stated Mattingly would never be able to resume full duty work.

Yelvington filed Dr. Bradley's mostly illegible note dated December 2, 2011. The note reflects Mattingly has amnesia from the head injury he sustained in the motor vehicle accident. A January 12, 2012 note states Mattingly is unable to work due to his amnesia. Included in Dr. Bradley's records is the March 3, 2009 report from Dr. Sowell, a neuropsychologist, who evaluated Mattingly for memory loss at Dr. Bradley's request. He diagnosed Mattingly with amnesic disorder due to head trauma and attention deficit hyperactivity disorder, all due to the work accident. He stated Mattingly would not reach MMI until the end of 2009, and is unable to return to work. Also included in Dr. Bradley's records is Dr. Edelson's December 7, 2011 report. Dr. Edelson, a psychologist, noted Mattingly has continued attentional and memory difficulty. He diagnosed Mattingly with depressive disorder not otherwise specified.

Yelvington also filed a report prepared by Dr. Petty dated November 8, 2010. He noted the December 22, 2007 injury, and found Mattingly had reached MMI by August 25, 2010. He assessed a 6% impairment rating pursuant to the AMA Guides. On December 19, 2011, Dr. Petty noted Mattingly has persistent pain from a rotator cuff tear, SLAP lesion, or has a new injury. He noted arthroscopy was required, most likely as an aggravation of the initial injury.

Yelvington additionally filed Dr. Weinberg's April 2, 2014 report. He stated Mattingly was at MMI for any vision problems, and does not qualify for an impairment rating pursuant to the AMA Guides.

Yelvington additionally filed a number of records which are apparently from Mattingly's claim for Social Security disability benefits. Dr. Jane Brake, on September 27, 2013, diagnosed Mattingly with organic mental disorders. She determined he would have no restrictions, nor difficulty with social functioning. She stated he would have mild difficulty with maintaining concentration with no episodes of decompression. On April 22, 2014, Dr. Ilze Sillers noted Mattingly has organic mental disorders which does not impact his ability to perform basic work functions.

Dr. Diosado Irlandez, on September 26, 2013, determined Mattingly should have restrictions of no lifting greater than twenty pounds on a maximum basis, nor over ten pounds frequently, and he can stand or sit up to six hours per day. He noted Mattingly's lumbar range of motion was essentially normal. In her report dated April 23, 2014, Dr. Donna Sadler indicated she would impose the same restrictions as those assigned by Dr. Irlandez.

In his report dated August 10, 2013, Dr. Edgar Lopez-Suescum noted Mattingly's December 22, 2007 work accident. He diagnosed multiple musculoskeletal injury of unspecific nature (per the patient), suspect personality disorder, and tobacco use disorder. He determined Mattingly has "no obvious skeletal limitations." He noted Mattingly has normal standing, sitting and lifting.

In his note dated January 3, 2008, Dr. Taylor stated he had treated Mattingly's orbital blow-out which resulted in a minimally displaced orbital floor fracture. He saw no need for surgical intervention. Yelvington also filed the report of an EEG performed by Dr. Francis Kadiyamjuttiyil on October 1, 2009. The EEG was normal.

A benefit review conference ("BRC") was held August 6, 2018. The BRC Order and Memorandum indicates the parties stipulated that Mattingly does not retain the physical capacity to return to the type of work performed at the time of the injury. The issues preserved for determination included benefits per KRS 342.730, work-relatedness/causation, unpaid or contested medical bills, injury as defined by the Act, TTD, PTD vs. permanent injury pertaining to vision, left arm, low back, neck, and right shoulder. The parties also preserved as an issue the work-relatedness and causation of the low back, right shoulder, neck, and seizures, as well as the proper rating per the AMA Guides (Dr. Weinberg).

In the Opinion, Award, and Order rendered October 3, 2018, the ALJ awarded Mattingly TTD benefits from December 22, 2007 through July 6, 2011, "and the sum of \$283.60 per week for 100% permanent disability commencing on December 22, 2007, and continuing for so long as he is so disabled." The ALJ

additionally stated, “All benefits shall terminate in accordance with KRS 342.730(4).” The ALJ also awarded medical benefits.

Regarding the work-relatedness of Mattingly’s alleged neck, low back, right shoulder and SI joint injuries, the ALJ found as follows:

**Work-Relatedness and Causation
Low Back, Right Shoulder, Neck, and Seizures**

20. The ALJ finds that it is undisputed that the Plaintiff sustained a work-related injury as a result of an automobile accident resulting in blunt force trauma to the head and accepted injuries to the right knee, left shoulder, right hip, and head.

21. The Defendant Employer disputes the work-relatedness of the right shoulder condition despite documentation that references a right shoulder contusion immediately following the accident. Dr. Glies[sic] disputes this because there was no additional documentation of any right shoulder pain until May 19, 2009. The physical therapy records reflect that the Plaintiff was engaged in activities with his right arm due to the inability to use his left. In short, the ALJ is not persuaded that this delay excuses the Defendant for being responsible for this injury.

22. The ALJ notes that Dr. Glies[sic] opined that when there are serious injuries, minor ones are often overlooked initially, while in the same document arguing that any injury appearing after a six month delay is not causally work-related. The opinion of Dr. Glies[sic] on this point is not persuasive as Dr. Glies[sic] also noted in his opinion the absence of pre-existing problems with the right shoulder. The ALJ therefore finds that the Plaintiff’s right shoulder condition is causally work-related.

23. Dr. Glies[sic] also found that the medical records did not show low back and right SI joint complaints until six months after the injury, and therefore, opined that those injuries are also not related to the work injury. Dr. Glies[sic] assessed a 0% lumbar impairment.

24. Dr. Glies[sic] also opined that the Plaintiff's neck pain was not related to the work injury because it developed when he was putting up a swimming pool and because again he did not complain about neck pain at the time of the exam. Dr. Glies[sic] also assessed a 0% impairment for the neck adding that the Plaintiff's reports of "twitching" in his face and extremities were not work-related and did not require any restrictions.

25. The ALJ finds with respect to the seizure condition, that the Plaintiff was asymptomatic prior to the significant head trauma associated with the work accident. Dr. Mayron noted that the Plaintiff complained of hissing in his ears, sudden jolts throughout his body, and numbness in the feet and hands when walking. He diagnosed post-traumatic sensory seizures, post-traumatic migraines, post-traumatic optic neuropathy, and intractable migraines. This opinion has convinced the ALJ and the ALJ thus finds that the Plaintiff's seizures, migraines, and optic neuropathy are causally work-related.

26. The ALJ finds that Dr. Glies[sic] deferred when asked to give an opinion regarding the Plaintiff's cognitive impairment but held the Plaintiff strictly accountable for accurately describing all of his symptoms in a timely manner. This inconsistent approach renders the opinion of Dr. Glies[sic] on these matters less than credible. **The ALJ therefore finds based upon the absence of evidence that the Plaintiff was symptomatic prior to the work injury, that the Plaintiff's low back, SI joint, and neck pain are all causally work-related. (Emphasis added).**

27. Dr. Glies[sic] also made a reference to a left arm injury but the ALJ finds that there is insufficient evidence to establish the occurrence of such an injury and the Plaintiff's claim for benefits as a result of a left arm injury is hereby **DISMISSED**.

Yelvington filed a petition for reconsideration requesting additional findings of fact "regarding his finding of permanent total disability and whether he

finds Plaintiff is permanently totally disabled due to his head injury alone, or due to other injuries, and if so, which injuries.” Yelvington additionally requested findings regarding the evidence the ALJ relied upon in determining Mattingly’s low back, SI joint, neck, and right shoulder are work-related. In the alternative, Yelvington requested the ALJ find it is not responsible for future medical benefits for those conditions since he found the low back, SI joint, and neck injuries were temporary in nature.

The ALJ issued an Amended Award and Order on November 6, 2018, which states as follows:

This matter is before the ALJ upon the Petition for Reconsideration filed by the Defendant Employer seeking additional findings, a clarification of the medical benefits awarded, and a clarification of the stipulation reached regarding interest accrued during the abeyance period. Having reviewed the Petition and the Response thereto, the following additional findings and **AMENDED AWARD AND ORDER** are hereby entered:

1. The ALJ finds that it is undisputed that this Plaintiff was struck by a vehicle in view of his wife and children during work. The Plaintiff credibly testified that his injuries included a fractured right tibia, an injury to the left shoulder including a torn bicep, a right hip injury, a fracture on the right side of his head, and an injury causing problems with his right shoulder.
2. The ALJ finds that the Plaintiff testified credibly that he had no such issues prior to his work-related collision with a moving vehicle.
3. The ALJ further finds that the Plaintiff testified credibly that he had undergone five right knee surgeries, three left shoulder surgeries, two right shoulder surgeries,[sic] and two right hip surgeries leaving him with constant headaches, back pain, and the inability to

lift a gallon of milk using one hand among other issues more fully detailed in the original Opinion and Award.

4. The ALJ finds that the credibility of the Plaintiff's description of his post accident symptoms and the lack of pre-accident injuries lends credibility to the medical findings of work-relatedness and causation summarized and referenced in the underlying Opinion and Award dated October 3, 2018. The ALJ thus reiterates the finding of work-relatedness and causation previously made.

5. The ALJ finds that the medical benefits awarded herein are hereby clarified such that future medical benefits shall not be owed for the low back, SI joint, and neck injuries in accordance with the finding that these injuries were temporary and ultimately resolved.

In an effort to more clearly delineate the medical benefits awarded and the stipulation reached regarding past due interest accrued during this matter, the following **AMENDED AWARD AND ORDER** is hereby issued:

AMENDED AWARD AND ORDER

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. The Plaintiff, Steve Mattingly, shall recover from the Defendant, Yelvington Fire Department., and/or its insurance carrier temporary total disability benefits in the weekly amount of \$283.60, from December 22, 2007, through July 6, 2011, and the sum of \$283.60 per week for 100% permanent disability commencing on December 22, 2007, and continuing for so long as he is so disabled, together with interest at the applicable statutory rate on all past due and unpaid installments of such compensation such that 12% interest is to be paid on amounts due up to and including June 28, 2017, and 6% interest is to be paid for past due amounts thereafter, but said permanent partial disability award is to be interrupted by any corresponding applicable periods of temporary

total disability. Despite the foregoing, interest on past due benefits has been waived by agreement from March 11, 2015, through June 21, 2017. The Defendant shall take credit for any payment of such compensation heretofore made, including those payments of temporary total disability benefits already made. All benefits shall terminate in accordance with KRS 342.730(4).

2. The Plaintiff shall recover of the Defendant-employer and/or its insurance carrier, such medical expenses including but not limited to provider's fees, hospital treatment, surgical care, nursing supplies, and appliances as may be reasonably required for the cure and relief from the effects of the work-related low back, SI joint, neck, right knee, left shoulder, right hip, and head injuries found herein, along with the associated vision problems found herein. Future medical benefits shall not be due to the Plaintiff for the work-related low back, SI joint, and neck injuries that were found to have resolved. The Defendant's obligation shall be commensurate with the limits set by the Kentucky Medical Fee Schedule.

On appeal, Yelvington argues the ALJ erred in finding the low back, SI joint, right shoulder, and neck are work-related. It argues the ALJ, in his order on reconsideration, did not address its request for additional findings regarding the evidence relied upon in finding the low back, SI joint, neck, and right shoulder are work-related. Yelvington argues the ALJ did not identify any medical opinion supporting the work-relatedness of those conditions. Yelvington additionally argues the ALJ erred in finding Mattingly is permanently totally disabled.

We initially note that Mattingly had the burden of proving each of the essential elements of his claim. Durham v. Peabody Coal Co., 272 S.W.3d 192, 195 (Ky. 2008); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Essential elements include the work-relatedness/causation of an injury. Burton v. Foster Wheeler

Corp., 72 S.W.3d 925 (Ky. 2002). If the cause of a condition is not readily apparent to a layperson, then medical testimony regarding causation is required. Mengel v. Hawaiian-Tropic Northwest and Central Distributors, Inc., 618 S.W.2d 184 (Ky. App., 1981). The mere possibility of work-related causation is insufficient. Pierce v. Kentucky Galvanizing Co., Inc., 606 S.W.2d 165 (Ky. App. 1980).

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).

However, such discretion is not unlimited. While authority generally establishes that an ALJ must effectively set forth adequate findings of fact from the evidence in order to apprise the parties of the basis for his decision, he is not required to recount the record with line-by-line specificity nor engage in a detailed explanation of the minutiae of his reasoning in reaching a particular result. However, in reaching a determination, the ALJ must provide findings sufficient to inform the parties of the basis for the decision to allow for meaningful review.

Kentland Elkhorn Coal Corp. v. Yates, 743 S.W.2d 47 (Ky. App. 1988); Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chafins, 502 S.W.2d 526 (Ky. 1973). In Arnold v. Toyota Motor Manufacturing, 375 S.W.3d 56, 61-62 (Ky. 2012), the Kentucky Supreme Court directed as follows:

KRS 342.275(2) and KRS 342.285 contemplate an opinion that summarizes the conflicting evidence concerning disputed facts; weighs that evidence to make findings of fact; and determines the legal significance of those findings. Only when an opinion summarizes the conflicting evidence accurately and states the evidentiary basis for the ALJ's finding [footnote omitted] does it enable the Board and reviewing courts to determine in the summary manner contemplated by KRS 342.285(2) whether the finding is supported by substantial evidence and reasonable.

As pointed out by Yelvington, Mattingly bore the burden of proving all elements of his claim, including whether he sustained compensable work-related injuries to his low back, SI joint, neck and right shoulder. It was not Yelvington's burden to disprove the claim until Mattingly established his claim with substantial evidence. In order to establish his claim for those specific injuries, Mattingly was required to submit supporting medical evidence. Mengel v. Hawaiian-Tropic Northwest and Central Distributors, Inc., *supra*. The record does not appear to contain evidence supporting Mattingly's contention that he sustained injuries to the back, neck or SI joint, and equivocal evidence regarding the right shoulder. Yelvington requested additional findings by the ALJ to support his determination regarding these conditions. A review of the order on reconsideration reveals that the ALJ did not do so. We are therefore compelled to vacate the ALJ's determinations

regarding compensability, and remand for additional findings as requested by Yelvington.

On remand, the ALJ may make any determination regarding compensable injuries caused by the December 22, 2007 accident, which is supported by the evidence. This Board may not and does not direct any particular result because we are not permitted to engage in fact-finding. *See* KRS 342.285(2); Paramount Foods, Inc. v. Burkhardt, *supra*. The evidence must support any determination by the ALJ.

We additionally vacate the ALJ's determination that Mattingly is entitled to an award of PTD benefits. On remand, the ALJ, after reviewing the evidence, may make any award supported by the evidence, including PTD benefits based upon the compensable injuries supported by the evidence. Again, we direct no particular result.

Accordingly, the October 3, 2018 Opinion, Award and Order, and the November 6, 2018 Order on Yelvington's petition for reconsideration, rendered by Hon. Jonathan R. Weatherby, Administrative Law Judge, are hereby **VACATED**. This claim is **REMANDED** to the Administrative Law Judge for additional findings of fact and entry of an amended opinion in conformity with the views expressed herein.

ALL CONCUR.

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