

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ERNESTO BAUTISTA and DEPARTMENT OF THE ARMY,  
DIRECTORATE OF INSTALLATION SUPPORT, Fort Bliss, Tex.

*Docket No. 97-1500; Submitted on the Record;  
Issued February 25, 1999*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant's bilateral shoulder condition is causally related to his May 7, 1991 employment injury.

On a prior appeal of this case,<sup>1</sup> the Board found that appellant did not meet his burden of proof. The only medical opinion of record relating appellant's bilateral shoulder condition to the May 7, 1991 employment injury was the June 9, 1992 diagnosis of appellant's attending orthopedist, Dr. Jacob S. Heydemann: "Impingement syndrome, bilateral shoulder, left greater than right aggravated by the motor vehicle accident May 7, 1991, degenerative osteoarthritis of the cervical spine aggravated by the motor vehicle accident May 7, 1991." The Board found that this was insufficient to establish the element of causal relationship because Dr. Heydemann failed to explain the medical basis of his opinion and because he failed to address appellant's prior neck and back injuries in 1981, 1983 and 1989; the course of his medical care prior to the May 7, 1991 employment injury; and the findings reported by Dr. Steven K. Crouse, the Board-certified neurologist who examined appellant two days after the motor vehicle accident. The facts of this case are set forth in the Board's prior decision and are hereby incorporated by reference.

Appellant submitted a September 7, 1995 report from Dr. Heydemann. He noted that appellant had problems with his shoulders, especially his left shoulder, from an injury in 1989. Then on March 7, 1991, he stated, appellant was involved in a motor vehicle accident and since that time had been complaining of both shoulders hurting as well as his neck. Appellant had limited range of motion in both shoulders. This was thought initially to be related to his neck, but the persistent pain and soreness was eventually thought to be related to impingement or tendinitis. Dr. Heydemann noted that there were several reports dating back to the early parts of 1992 where an arthroscopic decompression was felt to be indicated for his shoulders for

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<sup>1</sup> Docket No. 93-1868 (issued May 24, 1995).

impingement syndrome. He also noted a December 5, 1991 report of clinical findings consistent with impingement syndrome. After discussing the findings in a couple of other reports in 1992, Dr. Heydemann noted that appellant first injured his shoulders playing volleyball in 1981, that a report following his injury in 1989 dealt mostly with his neck and that his shoulder symptoms had by that time improved until the motor vehicle accident in 1991: “That’s when those symptoms of his shoulders started increasing and became more apparent by the latter part of 1991 and certainly by the first part of 1992.”

In a November 3, 1995 report, Dr. Heydemann stated that the injury in 1991 was an injury to both shoulders, that appellant related bilateral shoulder complaints when he saw appellant. He noted prior injuries to the neck and upper back in 1981, 1983 and 1989 “and this was certainly a further aggravation of that same problem.”

In a November 8, 1995 report, Dr. Crouse wrote as follows:

“[Appellant] was under my care between 1989 and 1991 and he now reports that there seems to be some difficulty with [w]orkman’s [c]ompensation over an injury that was suffered on May 7, 1991. He was having neck and left shoulder pain prior to May 7, 1991. I saw him on one occasion after that injury, which would be May 9, 1991, and at that time he indicated that he was having an increase in his usual pain and symptoms as a result of the injury. I wrote down that it was a recurrence of the usual headache, neck pain and low-back pain, but this would include, of course, the left shoulder pain, which he had chronically as well. I hope this clears up any confusion about the fact that the left shoulder pain did increase after the injury of 1991 in addition to all of his symptoms.”

In a merit decision dated March 6, 1996, the Office denied modification of its decision rejecting appellant’s claim.

The Board finds that the medical opinion evidence of record is insufficient to establish that appellant’s bilateral shoulder condition is causally related to his May 7, 1991 employment injury.

As the Board explained in its prior decision, the evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant’s employment injury and must explain from a medical perspective how the current condition is related to the injury.<sup>2</sup>

Appellant has submitted additional medical evidence from Dr. Heydemann and Dr. Crouse, but this evidence fails to show how the motor vehicle accident of May 7, 1991 caused or aggravated appellant’s bilateral shoulder condition.

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<sup>2</sup> *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

Dr. Crouse's report of November 8, 1995 comes four and a half years after his May 9, 1991 report and attempts to explain that appellant had an increase in his left shoulder pain following the motor vehicle accident. The Board has carefully reviewed his May 9, 1991 report, however, and can find no indication that appellant related any kind of shoulder complaint at that time, much less an increase in left shoulder pain. In Dr. Crouse's contemporaneous report, he stated that appellant related a recurrence of the usual headache and neck pain, as well as low back pain. Dr. Crouse noted that these were symptoms similar to what appellant had in the past, except that for the first time appellant had pain behind his legs. Appellant did not mention his left shoulder, nor did Dr. Crouse address it, even indirectly. This, together with appellant's identification of specific areas of pain, undermines Dr. Crouse's later attempt to explain that appellant had broadly related an increase in his "usual pain and symptoms," which would thus include his chronic left shoulder pain. Without evidence showing that appellant did in fact relate a left shoulder complaint at the time, the Board finds that Dr. Crouse's reports fail to substantiate that appellant had an increase in his left shoulder pain in the days following his motor vehicle accident of May 7, 1991.

Dr. Heydemann reported that appellant's limited range of motion in both shoulders was thought initially to be related to his neck, but that the persistent pain and soreness was eventually thought to be related to impingement or tendinitis. He noted clinical findings consistent with impingement syndrome as early as December 5, 1991. Dr. Heydemann failed to explain, however, how the incident of May 7, 1991 caused or aggravated appellant's bilateral shoulder condition. As he reported, appellant's shoulder symptoms increased and became more apparent by December 5, 1991 and certainly by the first part of 1992. Dr. Heydemann must account from a medical perspective for the apparent onset of symptoms some seven months or more following the incident in question.

Dr. Heydemann's reports affirmatively support a connection between the motor vehicle accident of May 7, 1991 and appellant's bilateral shoulder condition in late 1991 and early 1992, but the lack of a sound, well-reasoned medical explanation of how the incident affected appellant's shoulders diminishes the probative value of his opinion.<sup>3</sup> For this reason, the Board finds that appellant has not met his burden of proof.

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<sup>3</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

The March 6, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
February 25, 1999

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member