

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MELVIN J. STEVENS and DEPARTMENT OF THE AIR FORCE,  
OKLAHOMA CITY AIR LOGISTICS CENTER, TINKER AIR FORCE BASE, Okla.

*Docket No. 97-2247; Submitted on the Record;  
Issued April 28, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability commencing May 16, 1996 causally related to his accepted January 25, 1995 employment-related injury.

On February 2, 1995 appellant, then a 47-year-old aircraft mechanic, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on January 25, 1995 he injured his left foot. The record shows that appellant stopped work on January 26, 1995, returned to work on February 13, 1995, was placed on light duty from February 13 to March 6, 1995 and returned to regular duty on March 7, 1995. Continuation-of-pay was authorized and medical expenses were paid.<sup>1</sup> The Office of Workers' Compensation Programs accepted appellant's claim for a contusion of the left foot.

Appellant filed a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a) on May 17, 1996 alleging that on May 16, 1996, he sustained a recurrence of disability due to his January 25, 1995, accepted employment-related injury. In the notice of recurrence of disability appellant alleges that "the foot was still painful and was numbness [sic] on top of the dorsum of the foot. After a few [weeks] [appellant] went back on regular duty but then I had trouble with my right knee and went back on limited duty. The left foot has a numbness and [is] painful to the touch and foot tends to swell, and I have been unable to wear my regular foot wear which is boots because of the injury to my foot." Appellant further explained the circumstances of the recurrence as "the top of my left foot has been numb since the injury accident and at times after the injury my foot would swell up and I could not wear cowboy boots anymore because of pain in my left foot and it would swell if I tried to and on May 16,

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<sup>1</sup> The record contains an authorization for examination and/or treatment (Form CA-16) dated January 25, 1995 and a report of termination of disability and/or payment (Form CA-3) dated March 21, 1995, showing that appellant was authorized a continuation-of-pay from January 26 to February 13, 1995, for 18 days and/or 96 hours.

1996 my left foot swelled up so much I could [not] get a shoe on. So on [May 17, 1996] I went to see a doctor.”

In a decision dated December 5, 1996, the Office denied appellant’s claim finding that he failed to establish a causal relationship between his recurrence of disability and his accepted employment-related injury of January 25, 1995.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability commencing May 16, 1996 causally related to his accepted January 25, 1995 employment-related injury.

Under the Federal Employees’ Compensation Act,<sup>2</sup> an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.<sup>3</sup> As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition,<sup>4</sup> and supports that conclusion with sound medical reasoning.<sup>5</sup>

Section 10.121(b) provides that when an employee has received medical care as a result of the recurrence, she or he should arrange for the attending physician to submit a medical report covering the dates of examination and treatment, the history given by the employee, the findings, the results of x-rays and laboratory tests, the diagnosis, the course of treatment, the physician’s opinion with medical reasons regarding the causal relationship between the employee’s condition and the original injury, any work limitations or restrictions, and the prognosis. The employee should also submit or arrange for the submission of similar medical reports for any examination and/or treatment received subsequent to returning to work following the original injury.<sup>6</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>7</sup> In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician’s conclusion of a causal relationship.<sup>8</sup> Neither the fact that appellant’s condition became apparent during a period of employment nor appellant’s belief that his condition was

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

<sup>4</sup> *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

<sup>5</sup> *Lourdes Davila*, 45 ECAB 139, 142 (1993).

<sup>6</sup> 20 C.F.R. § 10.121(b).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>8</sup> *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

caused by his employment is sufficient to establish a causal relationship.<sup>9</sup> A physician's opinion on causal relationship is not dispositive simply because it is rendered by a physician.<sup>10</sup>

The medical evidence submitted in support of appellant's claim for recurrence commences on or after May 16, 1996, and consists of medical reports from Dr. W. Dale Hall, a podiatrist, dated May 17, August 20 and October 11, 1996, as well as a one-page medical report from Dr. Brenda Randolph, a Board-certified family practitioner, dated October 16, 1996, who reported appellant's treatment for gout and arthritis since March 1995. Dr. Randolph noted that she had reviewed the medical records of appellant's prior physician, Dr. Ralph L. Buller, a Board-certified internist, who stated in his two-sentence disability slip dated January 31, 1995 that appellant was disabled because of the contused left foot until February 5, 1995. Dr. Randolph then stated that she did not believe that appellant's condition was due to appellant's history of gout because she saw no evidence of an acute gouty arthritis flare-up.<sup>11</sup> The remaining medical evidence of file either predates the May 16, 1996 date of recurrence, covers the period of January 26 through March 21, 1995 and/or specifically addressed appellant's January 25, 1995 accepted employment-related injury.

In the October 11, 1996 medical report, Dr. Hall noted that he had also examined appellant on May 17 and August 20, 1996 for a chief complaint of swollen left foot which had been present for two days prior to May 17, 1996. He incorporated his May 17 and August 20, 1996 reports in his October 11, 1996 report. Dr. Hall noted that appellant had a past history of gout, hypertension, arthritis numbness in the foot, that he wore glasses, and had a surgical history on his knee and left toes. He diagnosed appellant with ganglionic cyst, obesity, tendinitis/periostitis and noted in his August 20 and October 11, 1996, reports that the diagnosis of ganglionic cyst and tendinitis/periostitis were related to appellant's January 25, 1995 accepted employment-related injury. Dr. Hall noted that appellant had indicated that "a trailer tongue fell on his left foot" and that he was treated for a broken thumb, knee and "smashed left foot." He also indicated that appellant had a history of osteoarthritis and stated:

"Neurological examination: with normal limits. However, there is paresthesia from an old injury of dropping a trailer hitch on his left foot. There is a ganglionic cyst over the dorsal surface of the mid tarsal area five cm [centimeters] in diameter.

"Musculoskeletal examination: normal however this is a very large individual. [Appellant] relates losing 70 pounds recently.

"Orthopedic examination: [Appellant] has a pronated foot structure. He would probably benefit from custom orthotics to correct abnormal foot function. Biomechanical examination performed. [Appellant] was told that orthotics are

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<sup>9</sup> *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

<sup>10</sup> *Jean Culliton*, 47 ECAB 728, 735 (1996).

<sup>11</sup> Appellant's January 25, 1995, traumatic injury was accepted for a contusion of the left foot.

corrective, but not curative in nature. He was also told that I cannot guarantee the ultimate usefulness of orthotic therapy as it is a conservative treatment.

“X-ray: x-rays three views taken of the right foot demonstrate large foot but no deformities. X-rays three views taken of the left foot demonstrate same definition. No fractures noted on either foot. There is a deviation of the hallux. The right is greater than the left.

“Impression: there is edema over the left foot with pains noted on the dorsal portions of the foot. However, this has been present since January 25, 1995. The plantar flexion and dorsal flexion does not create pain. At this point I feel the patients weight is a factor. Although the ganglionic cyst may have a serious bearing on the neurological paresthesia. All pulses within normal limits. The accident where a trailer tongue fell on his [appellant’s] left foot certainly has a positive indication that this is the etiology of the current problems. There are no laboratory test that have been made available that relate to this edematous condition of the foot.<sup>12</sup>

“Plan: A lo-dye athletic strapping was applied to the patient’s left foot. Coban was wrapped around strapping. Patient was instructed to get lace up shoes and discontinue flip flop type shoe gear. This was done on May 17, 1996.”

Additionally, Dr. Hall found in his prior August 20, 1996 report that appellant had a disability from constant edema over the left foot; that he had continued to have pain in his left foot; and that the condition was present since January 25, 1995, the date the injury occurred. He stated that the “[Appellant] would probably benefit from custom orthotics to correct abnormal foot function. Biomechanical examination performed. Dr. Hall was told that orthotics are corrective, but not curative in nature. [Appellant] was also told that I cannot guarantee the ultimate usefulness of orthotic therapy as it is a conservative treatment and discharged appellant.” He further opined that “It is always possible that a condition, like the edema noted here and tendonitis could be aggravated and certainly could incur further harm unless restrictions were placed on his work type. Working around machinery, walking on hard surfaces for extended periods of time, lifting, standing or walking up ladders.”

In the October 16, 1996 report, Dr. Randolph reports appellant’s treatment for gout and arthritis since March, 1995 and notes that she has reviewed the medical records of Dr. Buller, a Board-certified internist, who stated in a two sentence disability slip dated January 31, 1995 that appellant was disabled because of the contused left foot until February 5, 1995, opined that she did not believe that appellant’s condition was due to his history of gout.<sup>13</sup>

While Dr. Hall provided some support for causal relationship by stating that appellant’s condition was present since January 25, 1995, he has failed to provide any rationale to support

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<sup>12</sup> The Board notes that Dr. Hall had previously stated in his May 17, 1996 medical report, that he had no original clue as to the cause of appellant’s diagnosed condition.

<sup>13</sup> The Office accepted appellant’s January 25, 1995, employment-related injury for a contusion of the left foot.

his conclusion. He did not treat appellant for a left foot condition between the time of appellant's original injury on January 25, 1995 until May 17, 1996 the day after appellant filed his claim for recurrence on May 16, 1996. Moreover, Dr. Hall has failed to provide bridging medical evidence to support a causal relationship between appellant's January 25, 1995 accepted contusion of the left foot and his current diagnosed conditions of ganglionic cyst, obesity, tendinitis/periostitis. The record does not show that appellant was treated by him in January 1995, or that appellant developed the current diagnosed condition on May 16, 1996, because of the original January 25, 1995 accepted employment-related injury. For example, Dr. Hall did not explain how and why appellant's May 16, 1996 recurrence of disability was exacerbated by his accepted January 25, 1995 employment-related injury. Therefore, the medical reports of record are of little probative value as they lack a sufficiently rationalized opinion on the causal relationship between appellant's current diagnosed condition, his accepted January 25, 1995 employment-related injury and his recurrence of disability commencing May 16, 1996.

As appellant has failed to establish that his recurrence of disability commencing May 16, 1996 is causally related to his accepted January 25, 1995 employment-related injury or to factors of his federal employment, he has not met his burden of proof.

The decision of the Office of Workers' Compensation Programs dated December 5, 1996 is hereby affirmed.

Dated, Washington, D.C.  
April 28, 1999

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member