

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**SCOTT E. McCAULEY, Appellant**

**and**

**DEPARTMENT OF HOMELAND SECURITY,  
FEDERAL AIR MARSHAL SERVICE,  
Washington, DC, Employer**

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**Docket No. 05-425  
Issued: April 22, 2005**

*Appearances:*  
*Scott E. McCauley, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chairman  
COLLEEN DUFFY KIKO, Member  
MICHAEL E. GROOM, Alternate Member

**JURISDICTION**

On December 6, 2004 appellant filed a timely appeal from the Office of Workers' Compensation Programs' March 4 and September 14, 2004 merit decisions denying his claim of an employment-related injury on December 14, 2001. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on December 14, 2001.

**FACTUAL HISTORY**

On December 31, 2003 appellant, then a 33-year-old civil aviation security specialist, filed a traumatic injury claim alleging that he sustained bruised ribs when he fell down during hand-to-hand combat training at work on December 14, 2001. In an accompanying statement,

appellant indicated that he sustained a blow to his rib cage during the training. Appellant sought medical treatment on December 31, 2003 but did not stop work.

By letter dated January 28, 2004, the Office requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted x-ray findings obtained on December 14, 2001 which showed that he had no rib fracture, osteolytic process, or osteoblastic process in his right thorax.

By decision dated March 4, 2004, the Office denied appellant's claim that he sustained an injury in the performance of duty on December 14, 2001. The Office found that appellant established the occurrence of an employment incident on December 14, 2001, but that he did not submit sufficient medical evidence to show that he sustained a diagnosed condition as a result.

Appellant submitted a December 14, 2001 "request for radiology services" which indicated that an examination was requested of his right rib and chest area. The form contained the notation "[complains of] injury during exercise."<sup>1</sup> He also submitted billing statements for medical services rendered on December 14, 2001.

By decision dated September 14, 2004, the Office denied modification of the March 4, 2004 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> Second, the employee must

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<sup>1</sup> The form was signed by Dr. Arturo Calderon, who is not listed as Board certified in the reference materials for physician specialties.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

<sup>5</sup> *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup> The term “injury” as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.<sup>7</sup>

### ANALYSIS

Appellant alleged that he sustained bruised ribs during hand-to-hand combat training at work on December 14, 2001. Although appellant established the occurrence of the employment incident on December 14, 2001, he did not submit sufficient medical evidence to show that he sustained a medical condition as a result.

Appellant submitted the findings of x-ray testing obtained on December 14, 2001 which showed that he had no rib fracture, osteolytic process, or osteoblastic process in his right thorax. This report, therefore, does not show that appellant sustained any specific medical condition on December 14, 2001. There is no report from a physician that he sustained an injury in the performance of duty on December 14, 2001. Given this lack of an opinion on causal relationship, the report is of limited probative value on the relevant issue of the present case.<sup>8</sup> Appellant also submitted a December 14, 2001 “request for radiology services” which was signed by Dr. Calderon. The form indicated that an examination was requested of appellant’s right rib and chest area and that he had complained of sustaining an “injury during exercise,” but it does not contain any medical opinion that appellant sustained a condition at work on December 14, 2001. Appellant submitted billing statements for medical services rendered on December 14, 2001, but this evidence does not show a causal relationship between the December 14, 2001 employment incident and the claimed condition.<sup>9</sup>

While it appears that appellant is seeking reimbursement for the medical expenses incurred in relation to the December 14, 2001 incident, he has not established that the expenditures were incurred for treatment of an employment-related injury.<sup>10</sup> There is no rationalized medical evidence to support causal relation or demonstrate that any such treatment was necessary or reasonable. There is no evidence the examination of appellant’s chest was authorized by a written form, such as a Form CA-16, or under emergency or unusual circumstance.<sup>11</sup>

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<sup>6</sup> *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

<sup>7</sup> *Elaine Pendleton*, *supra* note 3; 20 C.F.R. § 10.5(a)(14).

<sup>8</sup> See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

<sup>9</sup> See *Arnold A. Alley*, 44 ECAB 912, 920-21 (1993).

<sup>10</sup> See *Glen E. Shriner*, 53 ECAB 165 (2001).

<sup>11</sup> See *Michelle L. Corbett*, 53 ECAB 383 (2002).

**CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on December 14, 2001.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' September 14 and March 4, 2004 decisions are affirmed.

Issued: April 22, 2005  
Washington, DC

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

Michael E. Groom  
Alternate Member