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A.M., Appellant	)	
	)	
and	)	Docket No. 10-324
	)	Issued: August 13, 2010
U.S. POSTAL SERVICE, POST OFFICE,	)	
Pearl River, LA, Employer	)	
	)	

### Case Submitted on the Record

Before:  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

On November 18, 2009 appellant filed an appeal from a November 4, 2009 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

On appeal, appellant contends that the medical record establishes that the accepted emotional conditions caused by a January 5, 1989 robbery were not affected by subsequent work factors.

## **FACTUAL HISTORY**

This case has previously been before the Board. By decision issued July 6, 2009,<sup>1</sup> the Board affirmed a July 21, 2008 decision of the Office denying a recurrence of disability commencing May 8, 2001. The Board found that intervening work factors, including a September 1995 incident in which a coworker threatened appellant with a knife, a return to light duty in early 2001 and an April 26, 2001 telephone conversation with an employing establishment official, broke the chain of causation stemming from a January 5, 1989 workplace robbery. The law and facts as set forth in the Board's prior decision are incorporated by reference.

In July 10 and 15, 2009 letters, appellant requested reconsideration based on a July 7, 2008 medical report by Dr. David W. Galarneau, an attending Board-certified psychiatrist and neurologist,<sup>2</sup> who stated that although appellant's previous health providers did not explicitly link the 1989 robbery and "subsequent traumas in 1995, 2000 and 2001," this was "obviously the case" as subsequent traumas reactivated and worsened the accepted post-traumatic stress disorder (PTSD). Dr. Galarneau opined that all the traumas were causally related as appellant was predisposed for further trauma by the 1989 robbery. He diagnosed PTSD, mild major depressive disorder and panic disorder without agoraphobia.

On January 11, 1989 Dr. Phillip T. Griffin, a licensed clinical psychologist, opined that the January 5, 1989 robbery precipitated severe anxiety disorder. Dr. Serge Celestin, an attending Board-certified psychiatrist, noted on July 19, 2001 that appellant stopped work in April 2001 as she was unable to handle the pressure. In a January 10, 2007 report, Dr. Janet Seligson-Dowie, an attending Board-certified psychiatrist, opined that an April 26, 2001 telephone conversation with an employing establishment official reactivated appellant's PTSD. In August 8, 2007 and January 10, 2008 reports, Dr. Beverly Stubblefield, an attending licensed clinical psychologist, explained that appellant's PTSD originated with the 1989 robbery and "recurred" on September 18, 1995 when a coworker threatened her with a knife. The April 26, 2001 conversation caused a "consequential injury." Appellant also provided legal excerpts about causal relationship.

By decision dated August 12, 2009, the Office denied reconsideration on the grounds that appellant did not submit new, relevant or pertinent evidence in support of her request. It found that Dr. Galarneau's report was cumulative as his opinion was similar to that of other physicians of record. The Office further found that the reports of the other physicians were cumulative as they were substantially similar to their prior opinions. It also found that the legal excerpts were repetitive of appellant's prior arguments.

In an August 25, 2009 letter, appellant requested reconsideration. She submitted an August 24, 2009 report from Dr. Stubblefield, stating that appellant developed anxiety, major

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<sup>1</sup> Docket No. 08-2300 (issued July 6, 2009).

<sup>2</sup> In a July 10, 2009 telephone memorandum, the Office noted that appellant submitted Dr. Galarneau's July 7, 2008 report on July 17, 2008. However, it overlooked the report and did not consider it prior to the July 21, 2008 decision. The Office instructed appellant to resubmit the report accompanying a new request for reconsideration.

depressive disorder and trichotillomania in May 2001 after returning to work. Dr. Stubblefield opined that the recurrence of appellant's symptoms in May 2001 stemmed directly from the January 1989 robbery.

By decision dated November 4, 2009, the Office denied modification on the grounds that causal relationship was not established. It found that Dr. Stubblefield's August 24, 2009 report did not provide sufficient rationale supporting a spontaneous change in the accepted emotional conditions as of May 8, 2001.

### **LEGAL PRECEDENT**

The Office's implementing regulations define a recurrence of disability as "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."<sup>3</sup> When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.<sup>4</sup> An award of compensation may not be based on surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.<sup>5</sup>

### **ANALYSIS**

The Office accepted that on January 5, 1989 appellant sustained anxiety disorder, major depressive disorder and PTSD when she was robbed at gunpoint in the performance of duty. Appellant returned to light duty. In September 1995, a coworker threatened appellant with a knife. Appellant stopped work after this incident. Following a brief trial of modified work in early 2001, she stopped work and did not return. On April 26, 2001 appellant had a telephone conversation with an employing establishment official about her work absences. She then claimed a recurrence of disability commencing May 8, 2001.

To meet her burden of proof, appellant must demonstrate either a spontaneous change in the accepted emotional conditions or in her assigned light duties such that she could no longer

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<sup>3</sup> 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). *See also Philip L. Barnes*, 55 ECAB 426 (2004).

<sup>4</sup> *Carl C. Graci*, 50 ECAB 557 (1999); *see also Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>5</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996).

perform her job requirements.<sup>6</sup> She has the burden of providing sufficient evidence, including rationalized medical evidence, to establish the causal relationship asserted.<sup>7</sup>

Appellant submitted medical reports from several attending physicians attributing her psychiatric symptoms to workplace incidents after January 5, 1989. Dr. Celestin, a Board-certified psychiatrist, noted that appellant experienced an increase in symptoms in April 2001 due to work factors. Dr. Seligson-Dowie, a Board-certified psychiatrist, opined that an April 26, 2001 telephone conversation with an employing establishment official reactivated appellant's PTSD. Dr. Stubblefield, an attending licensed clinical psychologist, opined that the September 18, 1995 knife threat reactivated appellant's PTSD and that the April 26, 2001 conversation caused a separate injury. In an August 24, 2009 report, she explained that work factors in May 2001 caused anxiety, major depressive disorder and trichotillomania. Drs. Celestin, Seligson-Dowie and Stubblefield thus attributed the reappearance or worsening of appellant's psychiatric symptoms in May 2001 to the 1995 knife threat, work pressures in early 2001 and the April 26, 2001 conversation. The circumstances did not involve a spontaneous change in the accepted emotional conditions.<sup>8</sup>

Appellant also submitted a July 7, 2008 report from Dr. Galarneau, an attending Board-certified psychiatrist and neurologist. Dr. Galarneau opined that the 1989 robbery caused PTSD predisposing appellant to disabling symptoms after the "subsequent traumas in 1995, 2000 and 2001." While he indicated that the accepted PTSD was an ongoing condition, he found that appellant's emotional state was impacted by subsequent occupational incidents in 1995, 2000 and 2001. Dr. Galarneau did not provide medical rationale supporting a spontaneous change in the accepted emotional conditions on May 8, 2001. His opinion is thus insufficient to meet appellant's burden of proof.<sup>9</sup>

On appeal, appellant contends that the medical evidence establishes that work factors after the January 5, 1989 robbery did not affect the accepted emotional conditions. As set forth above, her physicians did not support a spontaneous change in the accepted emotional conditions as of May 8, 2001. Rather, they opined that subsequent occupational incidents caused the return of psychiatric symptoms, breaking the chain of causation stemming from the 1989 incident.

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<sup>6</sup> *Carl G. Graci*, *supra* note 4.

<sup>7</sup> *Ricky S. Storms*, 52 ECAB 349 (2001).

<sup>8</sup> *Bryant F. Blackmon*, 56 ECAB 752 (2005).

<sup>9</sup> *Id.*

Appellant did not submit sufficient rationalized medical evidence to establish the claimed recurrence of disability. Therefore, the Office properly denied her claim.

**CONCLUSION**

The Board finds that appellant has not established that she sustained a recurrence of disability on and after May 8, 2001 causally related to accepted emotional conditions.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated November 4 and August 12, 2009 are affirmed.

Issued: August 13, 2010  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board