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

G.B., Appellant	)	
and	)	Docket No. 13-1474 Issued: December 18, 2013
DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS, ROGUE RIVER BASIN PROJECT, Trail, OR, Employer	)	issucu. December 16, 2013
Appearances: Appellant, pro se	,	Case Submitted on the Record

Office of Solicitor, for the Director

## ORDER REMANDING CASE

## Before:

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

On June 10, 2013 appellant filed a timely appeal from a May 21, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) that affirmed an April 16, 2012 OWCP decision in which appellant's compensation benefits were terminated effective April 17, 2012. The claim was docketed as No. 13-1474.

The Board has duly considered the matter and finds that this case is not in posture for decision. Upon review of the case record submitted by OWCP, the Board finds that the record before it is incomplete. The instant case includes two OWCP files, for a January 18, 1989 injury accepted for low back strain with subluxations, adjudicated under file number xxxxxx776, and for an April 5, 1990 injury accepted for a herniated disc at L4-5, adjudicated under file number xxxxxx702.

The imaged record transmitted by OWCP indicates that the combined record in this case includes an investigative DVD. The record further indicates that the DVD was forwarded to Dr. Mitchell Weinstein, a Board-certified neurosurgeon who provided a second-opinion evaluation for OWCP. In a December 7, 2011 report Dr. Weinstein indicated that he reviewed the DVD and relied on it in rendering his opinion. OWCP also referenced the DVD in a Notice

of Proposed Termination dated March 15, 2012 and appellant referred to it in his appeal to the Board.

The DVD is not found in the case record forwarded to the Board. Hence the Board finds this case is not in posture for decision as the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. The case must therefore be remanded to OWCP to obtain the aforementioned DVD and for further reconstruction and assemblage deemed necessary, to be followed by a *de novo* decision on the merits of the case.

**IT IS HEREBY ORDERED THAT** the May 21, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: December 18, 2013 Washington, DC

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge Employees' Compensation Appeals Board

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