

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELIAS M. CAMPOS and U.S. POSTAL SERVICE,
POST OFFICE, San Antonio, Tex.

*Docket No. 97-1860; Submitted on the Record;
Issued February 9, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issues are: (1) whether appellant had any disability after December 11, 1995 causally related to his accepted employment injury; and (2) whether appellant has met his burden of proof to establish that he has an emotional condition causally related to his employment injury.

On April 24, 1995 appellant filed an occupational disease claim alleging that he sustained pain in his left shoulder with numbness in his left arm due to factors of his federal employment. The Office of Workers' Compensation Programs assigned the case Office File Number A16-0258640 and accepted the claim for left shoulder strain and cervical strain.

In a report dated April 25, 1995, Dr. Mark S. Mayfield, who is Board-certified in family practice, opined that appellant should perform light duty from April 27 to May 1, 1995. In an office visit note dated May 2, 1995, Dr. Mayfield found that appellant's symptoms of cervical and left shoulder strain had completely resolved.

On August 11, 1995 appellant filed a claim for a traumatic injury on August 9, 1995 to his left shoulder and arm. The Office assigned the claim Office File Number A16-265505 and accepted the claim for left shoulder sprain and cervical sprain. In an internal Office memorandum dated March 6, 1996, the Office combined appellant's April 24, 1995 occupational disease claim and August 11, 1995 traumatic injury claim into Office File Number A16-265505.

In a work restriction evaluation dated November 10, 1995, Dr. Richard Hernandez, Board-certified in family practice and appellant's attending physician, found that he could return to work for four hours per day with restrictions. On November 13, 1995 appellant returned to limited duty for four hours per day with the employing establishment. On October 16, 1995 appellant accepted a limited-duty position for eight hours per day with the employing establishment.

On February 28, 1996 appellant filed a claim for continuing compensation on account of disability (Form CA-8) requesting compensation beginning February 12, 1996.

By decision dated April 29, 1996, the Office denied appellant's claim on the grounds that the evidence did not establish that he had any disability after December 11, 1995 causally related to his August 9, 1995 employment injury. The Office further found that the medical evidence did not establish that appellant's depression was related to his employment injury. In a decision dated January 14, 1997, the Office denied modification of its prior decision.

The Board has duly reviewed the case record and finds that the case is not in posture for a decision regarding the issue of whether appellant had any disability after December 11, 1995 causally related to his accepted employment injury.

In a report dated February 1996, Dr. Hernandez stated that appellant could not return to work. On February 26, 1996 Dr. Hernandez opined that appellant could return to work with restrictions; however, on March 8, 1996 the physician found him unable to work due to carpal tunnel syndrome, cervical and lumbar radiculopathy, and a shoulder sprain.¹

In a report dated April 4, 1995, Dr. Hernandez stated that he initially treated appellant on August 10, 1995 for an August 9, 1995 employment injury. He discussed appellant's continued complaints on neck pain and diagnosed cervical and lumbosacral strain and carpal tunnel syndrome. He noted that appellant had a stroke on February 6, 1996 but found that appellant was unable to work due to his neck and lower back strain rather than the stroke.

In a report dated May 11, 1996, Dr. Hernandez diagnosed cervical and lumbar strain, carpal tunnel syndrome, multiple cerebral infarctions and reactive depression. He found appellant "unable to perform on the job because of pain in his neck and in his lower back as well as his mental condition."

In a report dated October 4, 1996, Dr. Hernandez discussed appellant's history of injury of pain in his back since April 9, 1995 which was aggravated on August 9, 1995. He noted that a magnetic resonance imaging (MRI) study of the cervical spine revealed straightening of the cervical lordosis which evidenced muscle spasm of the neck and a bulge at C4-5. He related that even though he sent appellant back to work in November 1995 he did not find that appellant's condition had resolved and stated that a "strain can certainly be long lasting especially one that is caused by repetitive action injury." He further found that appellant could not work as of January 26, 1996 due to his neck pain and that while he "suffered a stroke in the meantime it was his neck and back problems which disabled him from performing his work." Dr. Hernandez found that appellant had cervical, thoracic and lumbosacral spine strain, bilateral carpal tunnel syndrome and reactive depression resulting from his August 1995 employment injury. The Board notes that Dr. Hernandez did not attribute appellant's limitations solely to his accepted condition of a sprain of the cervical spine. However, Dr. Hernandez did find that appellant was

¹ The record indicates that appellant filed a claim for carpal tunnel syndrome which the Office accepted for bilateral carpal tunnel syndrome and paid compensation for total disability beginning March 9, 1996.

unable to return to his usual employment in part because of continuing neck problems which he related to the August 1995 employment injury.

Although the reports of Dr. Hernandez do not contain sufficient rationale to discharge appellant's burden of proving by the weight of the reliable, substantial and probative evidence that he had continued disability after December 11, 1995 due to his accepted employment injury, they raise an uncontroverted inference of causal relationship sufficient to require further development of the case record by the Office.² On remand the Office should refer appellant, together with the case record and a statement of accepted facts, for examination by an appropriate medical specialist. After such further development as the Office deems necessary, it should issue a *de novo* decision.

The Board further finds that appellant has not established that he sustained depression due to his accepted employment injury.

With respect to appellant's claim that his emotional condition is causally related to his accepted employment injury, the Board notes that an employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his claim, including that fact 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.⁴

In support of his emotional condition claim, appellant submitted a report dated March 8, 1996 from Dr. Hernandez, who is Board-certified in family practice. Dr. Hernandez diagnosed acute reactive depression and attributed appellant's depression to his employment injury and recent stroke. The report of Dr. Hernandez is of little probative value as he provides no rationale for his conclusions.⁵

In a psychiatric evaluation dated March 25, 1996, Dr. Hugo R. Hernandez, a psychiatrist, diagnosed major depression but did not attribute the condition to appellant's work injury, and thus his opinion is insufficient to meet appellant's burden of proof. Appellant, therefore, has not submitted the necessary rationalized medical evidence to substantiate that his emotional condition was causally related to the accepted employment injury.

² *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ The Board has held that the opinions of physicians who have special training and knowledge in a specialized medical field have greater probative force on the question of causal relationship of a condition peculiar to the field than the opinion of nonspecialists. *Effie Davenport (James O. Davenport)*, 8 ECAB 136 (1955).

The decisions of the Office of Workers' Compensation Programs dated January 14, 1997 and April 29, 1996 are affirmed in part, set aside in part, and the case is remanded for further proceedings consistent with this opinion of the Board.

Dated, Washington, D.C.
February 9, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member