

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ALLENE SIZEMORE, claiming as the widow of WALLACE W. SIZEMORE,  
and DEPARTMENT OF THE TREASURY, U.S. CUSTOMS SERVICE, Washington, D.C.

*Docket No. 97-1155; Submitted on the Record;  
Issued January 6, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant, the employee's widow, established that her husband's death was caused by his employment.

On August 5, 1996 appellant filed a claim for survivor's benefits, following the death of her 48-year-old husband on June 29, 1996. Appellant stated that the cause of death was her husband's physical training.

In support of her claim, appellant submitted a description of her husband's work -- he began federal employment as a special agent for the Bureau of Alcohol, Tobacco, and Firearms in 1977, when he started a rigorous physical training program of running, exercise, and weight-lifting, which he continued until his death. In 1987 he transferred to the Customs Bureau and in 1993 was sent to headquarters.

Appellant stated that her husband's new duties were "poorly defined, complex, and numerous." He threw himself into his work and began eating lunch at his desk everyday. Appellant related that after a year, the stress of work began to show -- her husband would not talk about his difficulties, he became irritable and short-tempered, and exhibited severe mood swings.

Describing her husband's last few weeks, appellant stated he worked overtime to ensure that a major conference of special agents was successful. Two days after the conference ended, appellant's husband returned home from his usual run, "walked into the kitchen for a glass of water, and slumped to the floor, dead of a heart attack."

On October 8, 1996 the Office of Workers' Compensation Programs denied the claim on the grounds that no evidence had been submitted to establish that the employee's death was caused by work factors. Appellant requested reconsideration and submitted medical evidence.

The death certificate, signed by Dr. Donald D. Haut, Board-certified in internal medicine, listed the cause of death as severe coronary artery sclerosis and cardiomegaly. An autopsy report noted acute coronary artery insufficiency with significant luminal narrowing. Dr. Ava A. Kaufman, Board-certified in internal medicine, stated in a report dated September 24, 1996 that the employee's heart problems "were strongly affected by the extreme stress of his work. As a law enforcement officer, he had been under a great deal of stress, which has been shown to increase incidence of heart disease."

On December 16, 1996 the Office requested that Dr. Kaufman review a statement of accepted facts and provide an opinion with medical rationale on whether the employee's death was causally related to employment factors -- the employee's duties after his 1993 transfer were poorly defined, complex, and numerous and the employee was responsible for organizing the special agents' conference in June 1996.<sup>1</sup>

On January 9, 1997 the Office denied appellant's request on the grounds that the evidence submitted in support of reconsideration was insufficient to warrant modification of its prior decision. The Office noted that Dr. Kaufman had not responded to its request for a rationalized medical opinion on the cause of the employee's death.

The Board finds that appellant failed to carry her burden of proof in establishing that her husband's death was causally related to his work factors.

The Federal Employees' Compensation Act provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>2</sup> However, an award of compensation in a survivor's claim may not be based on surmise, conjecture, or speculation, or on an appellant's belief that the employee's death was caused, precipitated or aggravated by his employment.<sup>3</sup>

Appellant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the employee's death was causally related to factors of his employment.<sup>4</sup> This burden includes the necessity of furnishing a rationalized medical opinion based on an accurate factual and medical background and supported by medical rationale explaining the nature of the cause and effect relationship between the employee's death and specific employment factors.<sup>5</sup>

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<sup>1</sup> The Office listed incidents that were not employment factors -- the employee was eating lunch at his desk almost every day, the employee strove to achieve perfect performance evaluations, the employee's pay remained the same although the position he was filling was supposed to be higher paying, the employee felt that his supervisor was delaying a promised promotion.

<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *Juanita Terry* (Rex Terry), 31 ECAB 433, 434 (1980).

<sup>4</sup> *Judith L. Albert* (Charles P. Albert), 47 ECAB \_\_\_\_ (Docket No. 95-2475, issued September 25, 1996).

<sup>5</sup> *Kathy Marshall* (Dennis Marshall), 45 ECAB 827, 832 (1994).

In this case, there is no medical evidence showing that work factors caused the employee's death. Dr. Kaufman offered a cursory conclusion that the "stress" of his job resulted in the employee's "heart problems," but provided no rationale to support his opinion.<sup>6</sup> The record contains the April 1995 report of the employee's physical examination, which notes that the employee achieved "excellent exercise tolerance" and was reassured that there was "little likelihood of any serious problem."

Appellant's belief that the circumstances of her husband's work -- a workaholic boss and the employee's desires to achieve "outstanding" performance appraisals and be promoted -- led to his death is insufficient, absent medical rationale, to establish the requisite causal relationship. While organizing the June 1996 conference of special agents was a specially-assigned duty and therefore a work factor, the record indicates that the employee performed successfully and was rewarded with a standing ovation from the attendees.

The January 9, 1997 and October 8, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.  
January 6, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

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<sup>6</sup> See *Kathy Marshall*, *supra* note 5 at 833 (finding that a physician's failure to explain, with reference to specific medical findings, how and why employment factors contributed to the employee's death rendered his medical opinion of little probative value).