

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JOHN F. BOYCE and U.S. POSTAL SERVICE,  
POST OFFICE, Madeira, Ohio

*Docket No. 97-2126; Submitted on the Record;  
Issued July 7, 1999*

---

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's benefits effective April 26, 1997.

On September 26, 1984 appellant, then a 37-year-old letter carrier, filed a notice of occupational disease and claim for compensation<sup>1</sup> (Form CA-2) alleging that on August 16, 1984 he first realized his stress was due to his employment.<sup>2</sup> The employing establishment discharged appellant on October 31, 1984. The Office accepted the claim for temporary aggravation of post-traumatic anxiety depressive disorder. Appellant was paid temporary total disability from November 4, 1984 through June 7, 1986. Appellant accepted employment in private industry effective April 21, 1986 and ceased working in August 1988.

On October 23, 1990 appellant filed a claim for compensation on account of traumatic injury or occupational disease (Form CA-7) for the period August 2, 1988 to the present. The Office authorized compensation for the period July 1 through October 20, 1990 and placed appellant on the periodic rolls for temporary disability effective October 21, 1990.

On November 4, 1996 the Office referred appellant, along with the medical record, a statement of accepted facts and a set of questions to Dr. Shakeil Mohammed, a Board-certified psychiatrist, to resolve the conflict in the medical opinion evidence between George E. Parsons,

---

<sup>1</sup> The Office assigned this claim number A9-286842.

<sup>2</sup> Appellant filed a claim on March 21, 1984 alleging that on March 14, 1984 his supervisor harassed him causing him to suffer a nerve condition which the Office denied on August 6, 1984. The Office assigned this claim number A9-282985 and subsequently doubled this with file claim number A9-276123. By order dated November 15, 1984, the Office denied appellant's request for reconsideration as well as denying that his disability was related to a prior claim beginning in January 1983 as appellant had failed to submit any new evidence or present any new legal arguments. Appellant appealed to the Board which affirmed the Office's decision. Docket No. 85-866, issued May 23, 1985.

Ph.D., appellant's attending clinical psychologist, who opined that appellant's psychiatric problems seemed to be due to his federal employment, and Dr. Michael A. Gureasko, a second opinion Board-certified psychiatrist, who opined that appellant continued to suffer from a depressive and anxiety disorder, but that this preexisting condition was no longer aggravated by or related to his federal employment.

In a December 3, 1996 report, Dr. Mohammed noted appellant has not worked in 15 years and related his anger at the Department of Labor and the employing establishment. He noted that appellant "had significant paranoia of delusional quality related to the [employing establishment]." Dr. Mohammed opined that appellant's major psychiatric illness was not related to his federal employment. In support of this opinion, he referred to opinions of four previous psychiatrists as well as his diagnostic examination of appellant which was "based on longitudinal examination of his illness, history of significant chemical dependency, and very significant history of major psychiatric illness in several members of his family." Dr. Mohammed further opined that appellant's current psychiatric disability was unrelated to appellant's accepted employment-related psychiatric illness and that the temporary aggravation of appellant's post-traumatic anxiety depressive disorder had subsided. He opined that appellant's "current psychiatric condition is not related to his employment as a mail carrier in the [employing establishment] many years back." Lastly, Dr. Mohammed opined that appellant is unable to work due to his preexisting major psychiatric illness which is unrelated to his federal employment.<sup>3</sup>

In a March 11, 1997 letter, the Office notified appellant that it proposed to terminate his compensation.

By letter dated March 27, 1997, appellant disagreed with the Office's proposal to terminate his benefits.

By letters dated April 7 and 8, 1997, appellant reiterated his disagreement with the proposal to terminate benefits and submitted a November 8, 1979 letter of appreciation from the commanding officer of the U.S.S. Blue Ridge and a copy of his honorable discharge from the United States Navy.

By decision dated April 18, 1997, the Office terminated appellant's compensation effective April 26, 1997. In the attached memorandum, the Office credited the weight of the medical opinion evidence to Dr. Mohammed.<sup>4</sup>

---

<sup>3</sup> In his report, Dr. Mohammed referred to a November 29, 1983 report by Dr. Schwab as stating that appellant's "psychiatric condition was a direct product of remitting work stress." In his report, Dr. Schwab opined that appellant's "clinical medical psychological illness is a direct product of unremitting work stress." Any error appears to be harmless as it appears to be a typographical error since the physician otherwise correctly noted appellant's medical history and does not rely upon this opinion to reach his conclusion. Furthermore, Dr. Schwab issued his report in 1983 and the issue is whether appellant currently is totally disabled due to his accepted psychiatric condition as of December 3, 1996, the date of Dr. Mohammed's report.

<sup>4</sup> Subsequent to the decision terminating benefits, in a letter dated May 16, 1997, appellant requested a written review of the record by an Office hearing representative and submitted a May 17, 1997 report from Dr. Parsons in support of his request. By letter dated May 22, 1997, appellant requested the Office to disregard his May 16, 1997

The Board finds that the Office properly terminated appellant's compensation benefits effective April 26, 1997.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>5</sup> The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>6</sup> The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>7</sup> If the Office, however, meets its burden of proof and properly terminates compensation, the burden for reinstating compensation benefits properly shifts to appellant.<sup>8</sup>

In the present case, the Office accepted that appellant sustained an employment-related temporary aggravation of post-traumatic anxiety depressive disorder.

In situations where, as here, there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficient well rationalized and based on a proper factual background, must be given special weight.<sup>9</sup> The Office properly determined that a conflict of medical opinion existed between appellant's attending clinical psychologist, Dr. Parson and Dr. Gureasko, Board-certified Psychiatrist, who provided the Office with a second opinion evaluation and properly referred appellant, along with the medical record, a statement of accepted facts and a list of questions, to Dr. Mohammed to resolve the conflict. In his December 3, 1996 report, Dr. Mohammed advised that appellant was disabled due to a major psychiatric condition, but that it was unrelated to his federal employment and that any aggravation caused by his federal employment had subsided.

Dr. Mohammed's report is based on a complete and accurate history, and he clearly explained why he believed that appellant's current major psychiatric disorder was unrelated to his federal employment and that any aggravation had subsided. The Board therefore finds that Dr. Mohammed's well reasoned and thorough report established that appellant had ceased to have any disability or condition causally related to his employment injury, thereby justifying the Office's April 26, 1997 termination of his compensation benefits.<sup>10</sup> Thus, the burden of proof

---

letter and requested a copy of his file.

<sup>5</sup> See *Pedro Beltran*, 33 ECAB 222 (1992); *Mary E. Jones*, 40 ECAB 1125 (1989).

<sup>6</sup> See *Virginia Davis-Banks*, 44 ECAB 389 (1993).

<sup>7</sup> See *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

<sup>8</sup> See *Virginia Davis-Banks*, *supra* note 6; *Joseph M. Campbell*, 34 ECAB 1389 (1983).

<sup>9</sup> See *Kathryn Haggerty*, 45 ECAB 383 (1994); *Edward E. Wright*, 43 ECAB 702 (1992).

<sup>10</sup> See *Joe Bowers*, 44 ECAB 423 (1993).

shifted to appellant to establish that his disability subsequent to April 26, 1997 continued to be causally related to his employment injury.<sup>11</sup>

The decision of the Office of Workers' Compensation Programs dated April 18, 1997 is hereby affirmed.

Dated, Washington, D.C.  
July 7, 1999

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

---

<sup>11</sup> See *Virginia Davis-Banks*, *supra* note 6