

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RALPH GENTILE and DEPARTMENT OF THE NAVY,  
NAVAL AIR STATION, Brooklyn, NY

*Docket No. 98-2146; Submitted on the Record;  
Issued April 19, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
DAVID S. GERSON

The issue is whether appellant established a recurrence of disability and required left knee surgery in June 1996 causally related to his accepted March 1969 employment injury.

The Board has duly reviewed the case record and concludes that appellant has not established a recurrence of disability or that he required left knee surgery in June 1996 causally related to his accepted employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a partial tear of the medial meniscus of his left knee stemming from working on his knees on March 11, 14 and 18, 1969. On May 20, 1975 the Office awarded appellant a schedule award for a 13 percent permanent loss of the use of the left leg. On March 27, 1997 appellant, filed a notice of recurrence of disability indicating that his knee condition severely worsened in the middle of June 1996 and that he subsequently underwent surgery for the condition. The Office subsequently advised appellant to submit rationalized medical evidence addressing the relationship between his alleged recurrence of disability and surgery and his accepted employment condition.

In support of his claim, appellant submitted reports from Dr. Leon D. Costa, a treating physician and a Board-certified orthopedic surgeon. On June 7, 1996 Dr. Costa examined appellant and diagnosed a left knee internal derangement with probable medial meniscus tear and left knee degenerative joint disease. On June 21, 1996 he indicated that magnetic resonance imaging of appellant's left knee taken on June 12, 1996 showed a medial meniscus tear. Dr. Costa performed a left knee surgery on July 10, 1996, which included an arthroscopy, subtotal medial meniscectomy, partial lateral meniscectomy and a chondroplasty/debridement. He subsequently diagnosed a complex tear of the medial meniscus, a degenerative tear of the lateral meniscus, degenerative joint disease and chondrocalcinosis. Dr. Costa continued to provide progress reports on August 28, September 25, November 1 and December 4, 1996, which addressed appellant's symptomatology without discussing whether the complaints were

related to appellant's original injury. He failed to provide any medical opinion addressing whether appellant's diagnosed condition and surgery were related to the original accepted injury.

The Office subsequently referred appellant to Dr. Marc Kahn, a Board-certified orthopedic surgeon, for a second opinion examination. On April 6, 1998 Dr. Kahn reviewed the history of injury and the medical treatment provided. On examination, he noted a large varicose vein in the saphenous distribution over the anterior and medial portion of the knee. Dr. Kahn found a full range of motion of the left knee, but found tenderness over the medial joint line and medial femoral condyle. He indicated that Lachman's and drawer tests were negative, but that McMurray's test was positive. Dr. Kahn diagnosed a history of medial meniscal tear secondary to a work-related accident in 1969. He also indicated that appellant was status post arthroscopy with resection of medial and lateral meniscus tears and degenerative disease. Dr. Kahn opined that appellant's surgery was necessary due to the normal aging process and degenerative disease. He further concluded that appellant's meniscal tear in 1969 would have either healed in the last 20 years or required surgery much sooner. Consequently, Dr. Kahn stated that appellant's claimed recurrence of June 1, 1996 was not causally related to the injury of 1969.

By decision dated May 26, 1998, the Office denied appellant's claim for a recurrence because the evidence failed to establish that the claimed recurrence was causally related to the injury of March 1969. In an accompanying memorandum, the Office noted that the appellant failed to submit any medical evidence demonstrating that the claimed recurrence on or after June 21, 1996 was causally related to the employment injury and that the second opinion examiner found that appellant's condition was not related to the employment injury.

Where appellant claims a recurrence of disability to an accepted employment-related injury, he has the burden of establishing by the weight of the reliable probative evidence that the recurrence of the condition for which he seeks compensation is causally related to the accepted employment injury.<sup>1</sup> As part of this burden, appellant must submit rationalized medical opinion evidence based on a complete and accurate factual and medical background showing a causal relationship between the current condition and the accepted employment injury.

In this case, neither appellant's treating physician Dr. Costa, a Board-certified orthopedic surgeon, nor Dr. Kahn, the second opinion physician and a Board-certified orthopedic surgeon, related appellant's present left knee condition or his surgery to his accepted June 1969 employment injury. Appellant, therefore, failed to meet his burden of establishing a recurrence of disability.

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<sup>1</sup> See *Henry L. Kent*, 34 ECAB 361 (1982); *Dennis E. Twadzik*, 34 ECAB 536 (1983).

The decision of the Office of Workers' Compensation Programs dated May 26, 1998 is affirmed.

Dated, Washington, D.C.  
April 19, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

David S. Gerson  
Member