

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES J. JACKSON and DEPARTMENT OF THE TREASURY,  
BUREAU OF ENGRAVING & PRINTING, Washington, DC

*Docket No. 00-827; Submitted on the Record;  
Issued March 14, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that his disc disease and disc herniations was caused or aggravated in the performance of duty on July 21, 1999.

Appellant, a federal police officer, filed an occupational disease claim on July 27, 1999 alleging that after wearing his side handle baton for almost a full day on July 21, 1999, he noticed pain and discomfort associated with sciatica in his left upper hip area. He stopped work on July 30, 1999 and returned to light duty on August 13, 1999.

In a letter dated September 2, 1999, the Office of Workers' Compensation Programs requested additional factual and medical information from appellant regarding his claim, however, no information was submitted. By decision dated October 19, 1999, the Office denied appellant's occupational disease claim on the basis that fact of injury had not been established. In a letter dated November 8, 1999, appellant requested reconsideration of the October 19, 1999 decision and submitted medical evidence.

By decision dated March 10, 2000, the Office modified the October 19, 1999 decision, finding that appellant had actually filed a traumatic injury claim and not one of occupational disease. The Office denied appellant's claim finding that there was insufficient medical evidence supporting that appellant's condition was caused by factors of his federal employment.

The Board finds that appellant did not submit sufficient medical evidence to establish that his disc disease and disc herniations were caused or aggravated in the performance of duty on July 21, 1999.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim including the fact that the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation of the Act, 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.<sup>2</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

In order to determine whether an employee has sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether a “fact of injury” has been established. There are two components involved in establishing fact of injury, which must be considered. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused personal injury.<sup>5</sup> The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.

Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup> The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.<sup>9</sup>

In this case, it is not disputed that appellant wore a side handle baton as required by the employing establishment on July 21, 1999, which he alleged caused him pain and discomfort. However, the medical evidence is insufficient to establish that this activity caused or aggravated a medical condition.

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<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton* 40 ECAB 1143 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Elaine Pendleton*, *supra* note 2.

<sup>5</sup> *Id.*

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384-85 (1960).

<sup>8</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

In July 22 and November 18, 1999 reports, Dr. Madeline Greene, an attending physician, reported that appellant had been under her care for a sciatica-like condition since November 1998. She indicated that appellant had recently been required to wear his side baton and that the sciatica-like pain had recurred. Dr. Greene indicated that during a period prior to this incident in which appellant was not required to wear the side handle baton, his pain had resolved. In the November 18, 1999 report, she indicated that a magnetic resonance imaging (MRI) scan was done on September 30, 1999, which revealed trilevel disc degenerative disease with diffuse disc bulges and disc herniations of the protrusion type at L3-4 and L4-5.

In a November 11, 1999 report, Dr. Joel Falik, a Board-certified neurologist indicated that appellant reported low back pain, which he related to his employment. Dr. Falik reviewed appellant's medical record and the September 30, 1999 radiology report and further stated:

“This patient has a history of left low back pain radiating to the left foot, which he states began in November 1998 after he was required, as part of his uniform, to wear a baton on his left hip. He saw Dr. Greene and stopped wearing the baton, at which time his pain in the left low back subsided. In July 1999 he was again required to wear the baton and has had a recurrence of left low back and leg pain.

“It would be my opinion that [appellant's] present problem, as described above of a lumbar disc herniation, is directly related to the work requirements that he wear a gun belt with all its paraphernalia. It is my opinion that the use of the baton, as described above, topped his weight limit and resulted in his disc herniation and associated symptoms.”

The reports of Drs. Greene and Falik are not sufficiently rationalized in explaining how wearing a side baton or gun belt caused or contributed to appellant's diagnosed trilevel degenerative disc disease and disc herniations. Dr. Greene, in her reports dated July 22 and November 18, 1999, provided only speculative and unrationalized support as to causal relationship and did not explain how or why specific factors of appellant's employment would cause or aggravate degenerative back disease. Dr. Falik's opinion, in his November 11, 1999 report, was also couched in speculative terms. His opinion of causation was based on appellant's history that his back pain subsided when he stopped wearing his side baton and that the pain recurred when he began wearing the baton again. Dr. Falik did not provide a reasoned medical opinion as to the causal relationship between appellant's back condition and employment factors.

Inasmuch as the record does not contain a rationalized medical opinion relating appellant's claimed condition to the July 21, 1999 employment incident, the Office properly denied appellant's claim.

The decisions of the Office of Workers' Compensation Programs dated March 10, 2000 and October 19, 1999 are affirmed.

Dated, Washington, DC  
March 14, 2001

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member