

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FELIPE SARCOS LAGNAS and DEPARTMENT OF DEFENSE,
OFFICE OF PROVOST MARSHALL, U.S. NAVAL BASE,
Subic Bay, Philippines

*Docket No. 02-2091; Submitted on the Record;
Issued February 11, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that his peptic ulcer, hearing loss, vertigo and heart conditions are consequential injuries of his accepted left knee and lumbar vertebrae osteoarthritis.

This is the third appeal to the Board. In the first appeal, the Board issued a decision on January 27, 1992 in which it remanded the case for further development on the issue of whether appellant developed degenerative osteoarthritis due to factors of his federal employment.¹ In the second appeal, the Board found that the Office of Workers' Compensation Programs had properly determined the amount of compensation to which appellant was entitled and that he received the maximum amount permissible under the Federal Employees' Compensation Act and the applicable regulations.² The Board also found that the Office did not abuse its discretion by refusing to reopen appellant's claim for review of the merits on September 20, 1994. The facts and circumstances of the case as set out the Board's prior decisions are incorporated herein by reference.

On December 5, 2000 appellant requested compensation for his peptic ulcer, vertigo, deafness and heart disease, which appellant alleged was a consequential injury of the medications he took for his osteoarthritis.

In a February 9, 1996 report, Dr. Mohinder S. Sohal, an attending Board-certified internist with a subspecialty in cardiovascular disease, diagnosed osteoarthritis due to appellant's federal employment, partial deafness due to Motrin, gastritis and peptic ulcer due to Motrin, "dizziness secondary to ear damage (?)" and bradycardia and ischemic hearing disease. The

¹ Docket No. 91-1374.

² 46 ECAB 970 (1995).

physician noted that appellant “was taking [a]spirin and Motrin, which apparently induced peptic ulcer and induced hard of hearing.”

In an April 20, 1995 report, Dr. Sohal diagnosed hypertension with hypertensive cardiovascular disease, ischemic heart disease, dizziness, peptic ulcer and bradycardia.

By letter dated March 29, 2001, the Office informed appellant that the evidence submitted was insufficient to establish that he sustained a consequential injury due to his accepted left knee osteoarthritis. The Office advised appellant of the information required to support his claim for a consequential injury.

In a March 8, 1995 report, Dr. Sohal diagnosed degenerative osteoarthritis, hypertension, hypertensive cardiovascular disease, prior myocardial infarction and ischemic heart disease.

Dr. Sohal, in an April 2, 2001 report, diagnosed bronchial asthma, chronic obstructive lung disease, history of peptic ulcer, arthritis, upper respiratory tract infection and acute laryngitis and possible acute bronchitis.

In a report dated May 21, 2001, Dr. Sohal diagnosed left knee and lumbar vertebrae osteoarthritis and opined that appellant is totally disabled from working.

By decision dated June 21, 2001, the Office denied appellant’s claim on the basis that he failed to establish a causal connection between his conditions and his accepted employment injury.

Appellant requested reconsideration by letter dated April 5, 2002 and enclosed an October 5, 2001 report by Dr. Lamberto Salud Olaes, an attending physician, in support of his request.

In an October 5, 2001 report, Dr. Olaes noted that appellant had been treated for osteoarthritis since 1993. He noted that appellant was on non-steroid anti-inflammatory drugs (NSAIDS) medications and stated:

“Patients on NSAIDS medications are prone to develop gastric irritation including peptic ulcers as side effect. Aspirin, even if enteric coated, is also a gastric irritant that can induce ulcers including GI bleeding. NSAIDS may also produce tinnitus and hearing loss.”

He concluded that appellant’s abdominal pain was “induced by the NSAIDS are being treated by antispasmodics and Pepcid tablets.” In concluding, Dr. Olaes stated that, based upon a review of past medical records and appellant’s history, he stated that he had “reason to believe that his current complaints are drug induced.”

On April 17, 2002 the Office issued a compensation order denying appellant’s request for a review of the merits.

In a letter dated May 29, 2002, appellant requested reconsideration and presented legal argument in support of his request.

In a merit decision dated June 29, 2002, the Office denied modification of its prior decision. After reviewing Dr. Olaes' report, the Office concluded that it was insufficient to establish a causal relationship between appellant's medications and his accepted condition. The Office also noted that Dr. Olaes' opinion was insufficient as it contained insufficient rationale, for his stated conclusion.

The Board finds that appellant has not established that his peptic ulcer, hearing loss, vertigo and heart conditions are consequential injuries of his accepted left knee and lumbar vertebrae osteoarthritis.

It is an accepted principle of workers' compensation law and the Board has so recognized, that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause, which is attributable to the employee's own intentional conduct.³ The subsequent injury is compensable if it is the direct and natural consequence of a compensable primary injury.⁴

In discussing how far the range of compensable consequences is carried, once the primary injury is causally connected with the employment, Professor Larson notes in his treatise:

“When the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of ‘direct and natural results’ and of claimant's own conduct as an independent intervening cause.

“The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.”⁵

Applying the principles noted above regarding a consequential injury, the Board finds that the medical evidence in this case relevant to appellant's conditions of peptic ulcer, vertigo, hearing loss and heart condition is insufficient to provide support that his peptic ulcer, vertigo, hearing loss and heart conditions are causally related to the January 1, 1963 employment injury. In a report dated February 6, 1996, Dr. Sohal diagnosed partial deafness due to Motrin, gastritis and peptic ulcer due to Motrin, “dizziness secondary to ear damage (?)” and bradycardia and ischemic hearing disease he also stated that appellant's use of aspirin and Motrin “apparently induced peptic ulcer and induced hard of hearing.” Subsequent reports by Dr. Sohal note treatment of appellant and the diagnoses of peptic ulcer, vertigo, hearing loss and heart condition.

³ Larson, *The Law of Workers' Compensation* § 10.00 (2000); see also *John R. Knox*, 42 ECAB 193 (1990).

⁴ Larson, *supra* note 3 at § 10.01 (2000); see also *Dana Bruce*, 44 ECAB 132 (1992).

⁵ See also *John R. Knox*, *supra* note 3; Larson, *supra* note 4.

Dr. Olaes noted that appellant had been treated for osteoarthritis since 1993. Regarding appellant's peptic ulcer and hearing loss, the physician stated, "Patients on NSAIDS medications are prone to develop gastric irritation" and that NSAIDS "may also produce tinnitus and hearing loss." Dr. Olaes then opined that he had "reason to believe that his current complaints are drug induced" based upon appellant's history and a review of the medical records.

Neither the opinion of Dr. Sohal nor the opinion of Dr. Olaes is sufficient to meet appellant's burden. While Dr. Sohal noted that appellant's use of aspirin and Motrin "apparently induced peptic ulcer and induced hard of hearing," his opinion is too speculative to constitute a rationalized medical opinion. Similarly, Dr. Olaes opinion that NSAIDS patients "are prone to develop gastric irritation" and NSAIDS "may also" cause hearing loss, is also too speculative to support appellant's burden of proof. In order to establish causal relationship, a physician's opinion must be based on a complete factual and medical background and must be supported by medical rationale which establishes that the diagnosed condition resulted from the accepted employment injury. A medical opinion supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to absolute medical certainty, but neither can the opinion be speculative or equivocal.⁶ As appellant failed to provide rationalized medical evidence attributing his ulcer, vertigo, hearing loss and heart condition to the January 1, 1963 left knee and lumbar vertebrae osteoarthritis, either by precipitation or aggravation, he has failed to meet his burden of proof. Therefore, the Office correctly found that the consequential injury to his back and left knee had not been established.

The decision of the Office of Workers' Compensation Programs dated June 29, 2002 is hereby affirmed.

Dated, Washington, DC
February 11, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁶ *Roger Dingess*, 47 ECAB 123 (1995).