

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES C. SLONE and DEPARTMENT OF LABOR,  
MINE SAFETY & HEALTH ADMINISTRATION, Pikeville, KY

*Docket No. 03-450; Submitted on the Record;  
Issued June 16, 2003*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that his hearing loss was causally related to factors of his federal employment.

On May 8, 2002 appellant, then a 54-year-old coal mine inspector, filed an occupational disease claim alleging that on April 23, 2002 he became aware of a hearing loss caused by factors of his federal employment. The employing establishment indicated that appellant was exposed to noise from mining equipment at work until September 1989.

In a report dated May 1, 2002, Dr. Douglas W. Lamppin, an otolaryngologist, noted that audiometric testing performed on April 23, 2002 revealed a bilateral hearing loss and stated, "Since [appellant was] exposed to noise in the work environment, this loss [was] probably related to this noise exposure."

Dr. Kevin T. Kavanaugh, a Board-certified otolaryngologist and an Office of Workers' Compensation Programs' referral physician, noted in a report dated October 29, 2002 that appellant was a mine inspector from 1978 to 1989. He stated that audiometric testing performed on October 25, 2002 revealed a progressive high frequency sensorineural hearing loss and appellant had risk factors for hearing loss that included occupational exposure to loud noise, the nonwork-related use of firearms<sup>1</sup> and machinery such as lawn mowers without adequate ear protection, and his cardiovascular status, arthritis, and cigarette smoking that decreased blood flow. Dr. Kavanaugh noted that the majority of appellant's hearing loss occurred after his last exposure to hazardous noise at work. He stated that the audiometric test results did not have the shape of a noise-induced hearing loss and that fact, along with the history of a progressive hearing loss continuing through the 1990's, pointed to a cause for the hearing loss other than noise exposure. Dr. Kavanaugh indicated that the mild high frequency sensorineural hearing loss shown on a 1987 audiogram could have been caused by nonoccupational noise exposure

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<sup>1</sup> The record shows that appellant hunted with a gun twice a year.

including the use of firearms. He stated his opinion that appellant's hearing loss was more likely than not caused by factors other than occupational noise exposure.

The Office's district medical director stated that the audiogram performed for Dr. Kavanaugh, as well as older audiograms, did not have the appearance of hearing loss due to noise exposure and, therefore, appellant was not entitled to a schedule award for a work-related hearing loss.

By decision dated November 6, 2002, the Office denied appellant's claim for a schedule award for hearing loss on the grounds that the medical evidence of record did not establish that his hearing loss was caused or aggravated by employment factors.

The Board finds that appellant failed to meet his burden of proof to establish that his hearing loss was causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure that caused an injury.<sup>3</sup>

Causal relationship is a medical issue,<sup>4</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>5</sup> must be one of reasonable medical certainty,<sup>6</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>7</sup>

In a report dated May 1, 2002, Dr. Lamppin, an otolaryngologist, noted that audiometric testing performed on April 23, 2002 revealed bilateral hearing loss probably related to noise exposure at work. However, Dr. Lamppin's opinion on causal relationship is not sufficient to discharge appellant's burden of proof because he did not provide a well-rationalized explanation for his opinion. He stated only that the hearing loss was probably related to noise exposure at

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease).

<sup>4</sup> See *Mary J. Briggs*, 37 ECAB 578, 581 (1986).

<sup>5</sup> See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> See *Morris Scanlon*, 11 ECAB 384, 855 (1960).

<sup>7</sup> See *James D. Carter, Jr.*, 43 ECAB 113, 123 (1991); *George A. Ross*, 43 ECAB 346, 351 (1991).

work, without providing additional explanation. The Board accordingly finds that his opinion on causal relationship is speculative and of diminished probative value.<sup>8</sup>

The second opinion otolaryngologist, Dr. Kavanaugh, stated that audiometric testing revealed that appellant had a progressive high frequency sensorineural hearing loss with risk factors that included occupational exposure to loud noise, the nonwork-related use of firearms and machinery such as lawn mowers without adequate ear protection, and his cardiovascular status, arthritis and cigarette smoking. He noted that the majority of appellant's hearing loss occurred after his last exposure to hazardous noise at work. Dr. Kavanaugh stated that appellant's audiometric test results did not have the shape of a noise-induced hearing loss and that fact, along with the history of a progressive hearing loss continuing through the 1990's, pointed to a cause for the hearing loss other than noise exposure. He stated his opinion that appellant's hearing loss was caused by factors other than occupational noise exposure.

The Office's district medical director concurred with Dr. Kavanaugh, stating that the audiogram performed for his report, as well as older audiograms, did not indicate hearing loss due to noise exposure. The Board finds that the weight of the medical evidence does not establish that appellant's hearing loss was employment related. Dr. Kavanaugh provided a reasoned medical opinion that appellant's hearing loss was not related to occupational noise exposure. The attending otolaryngologist, Dr. Lamppin, did not provide probative medical evidence in support of appellant's claim. The Board accordingly finds that the Office properly determined that appellant did not establish an employment-related hearing loss in this case.

The decision of the Office of Workers' Compensation Programs dated November 6, 2002 is affirmed.

Dated, Washington, DC  
June 16, 2003

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> See *Vaheh Mokhtarians*, 51 ECAB 190 (1999).