

signed by Officer Bravett Bull, describing the events of August 22, 2008. Appellant also submitted an incident report concerning the August 22, 2008 incident.

In an August 28, 2008 report, Dr. Alphonso Dial, a Board-certified diagnostic radiologist, reported that x-rays of appellant's lumbar spine revealed spondylothesis at the L5 level with Grade 1 spondylothesis of the L5 on S1. The x-rays also revealed severe degenerative changes at the L5-S1 level.

On August 29, 2008 Dr. Dial reported that a magnetic resonance imaging (MRI) scan of appellant's lumbar spine revealed spondylothesis at the L5 level with Grade 2 spondylothesis on L5 at S1. The MRI scan revealed moderate bilateral neural foraminal encroachment with contact on the exiting L5 nerve root bilaterally at the L5-S1. Furthermore, the MRI scan revealed a circumferential disc bulge at the L2-L3 with superimposed focal posterior central disc protrusion, eccentric to the right, with mild impression on the anterior sac. The L2-L3 circumferential bulge also had a mild impression on the anterior thecal sac.

Appellant submitted a September 16, 2009 note in which Dr. Wilhelmina C. Paglinauan, an internist, reviewed appellant's history of injury and reiterated the content of Dr. Dial's August 29, 2008 report.

By decision dated October 10, 2008, the Office denied the claim. While it accepted that appellant broke up a fight between two inmates on August 22, 2008, the Office denied the claim because the medical evidence of record did not demonstrate that the alleged medical condition was caused by the accepted employment incident.

On October 27, 2008 appellant, through his attorney, requested a hearing.

At a hearing, conducted February 11, 2009, appellant testified concerning his employment duties and the events of August 22, 2008.

Appellant submitted a February 16, 2009 note in which Dr. Paglinauan opines that appellant's low back problems were caused by injuries sustained on August 22, 2008 when appellant broke up a fight between inmates.

By decision dated May 14, 2009, the Office, affirming its October 10, 2008 decision, denied appellant's claim because the evidence of record did not establish the accepted employment incident caused the alleged medical condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

or disability for work for which he claims compensation is causally related to that employment injury.³ As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.⁴ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

ANALYSIS

The Office accepted that appellant broke up a fight between two inmates on August 22, 2008. Appellant's burden is to demonstrate that the accepted employment incident caused a medically-diagnosed injury. Causal relationship is a medical issue that can only be proven by probative, rationalized medical opinion evidence.⁸ The Board finds that appellant has not submitted sufficient rationalized medical opinion evidence establishing causal relationship and therefore has not established that he sustained an injury in the performance of duty on August 22, 2008 causally related to his employment.

The reports and notes from Drs. Dial and Paglinauan have little probative value on the causal relationship issue. Dr. Dial diagnosed spondylothesis at multiple levels, foraminal encroachment and other conditions, but he did not proffer an opinion explaining how the accepted employment incident caused any of the conditions he diagnosed.⁹ Dr. Paglinauan's September 16, 2009 note merely reviewed appellant's medical history and repeated the substance of Dr. Dial's August 29, 2008 report. She did not offer any independent medical evaluation as to

³ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *G.T., id.*; *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

⁵ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

⁶ *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

⁷ *T.H.*, 59 ECAB ____ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

⁸ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value). See also *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001)

how the accepted employment incident would have pathologically caused appellant's diagnosed conditions. In Dr. Paglinauan's February 16, 2009 note, she states that she had reviewed appellant's medical records and opines that appellant's condition was caused by injuries sustained on August 22, 2008 when appellant broke up a fight between convicts, but she did not present findings on examination, proffer a diagnosis or explain how the accepted employment injury caused a medically-diagnosed condition. These deficiencies reduce the probative value of these physicians' opinions such that their reports and notes are insufficient to satisfy appellant's burden of proof.

CONCLUSION

The Board finds that appellant has not established that he sustained an injury in the performance of duty on August 22, 2008 causally related to his employment.

ORDER

IT IS HEREBY ORDERED THAT May 14, 2009 and October 10, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 3, 2010
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board