



## **FACTUAL HISTORY**

On July 24, 2012 appellant, then a 27-year-old police officer, filed a traumatic injury claim alleging that, on July 12, 2012, she sustained a bruise and multiple contusions on her right arm and hand as a result of shooting a shotgun for qualifications. She stopped work on July 16, 2012 and returned to work on July 23, 2012.

In a July 19, 2012 office note, Dr. Zan Winko, a family practitioner, diagnosed multiple contusions. He restricted appellant to light duty with no heavy lifting or shooting until July 26, 2012. Dr. Winko did not provide a history of the July 12, 2012 incident at work or of any prior upper extremity condition.

In an August 6, 2012 duty status report, Dr. Ramana Gopalan, a Board-certified internist, related that appellant worked as a police officer. She noted injuries to the right hand, shoulder and elbow. Dr. Gopalan indicated that appellant's injury occurred because of a "shooting qualification, shotgun kickback." She diagnosed brachial plexus injury and authorized appellant to return to work with restrictions.

In an August 7, 2012 work excuse slip, Dr. Gopalan noted that she examined appellant for a right shoulder and wrist injury. She authorized that appellant remain on light duty until further evaluation in two weeks.

On August 9, 2012 OWCP advised appellant that the evidence submitted was insufficient to establish her claim and requested additional evidence.

In an August 13, 2012 electromyography (EMG) and nerve conduction velocity (NCV) test, Dr. Luke Kao, a Board-certified neurologist, related appellant's complaints of right arm and hand pain, sore neck and mild lower back pain after shooting practice. He noted that the NCV revealed delay of right median nerve latencies and normal ulnar, radial, transbrachial and leg nerve conductions. The EMG demonstrated minimal denervation changes in the right thenar muscles and tenderness of tendons in the right elbow and forearm. Dr. Kao diagnosed mild right carpal tunnel syndrome and right forearm and elbow tendinitis.

In a decision dated September 13, 2012, OWCP denied appellant's claim on the grounds of insufficient medical evidence. It accepted that the July 12, 2012 shooting incident occurred as alleged but denied the claim finding that the medical evidence did not establish that she sustained a right arm injury as a result of the accepted incident.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of her claim by the weight of the reliable, probative and substantial evidence<sup>4</sup> including that she sustained an injury in the performance of duty and that any specific condition

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

or disability for work for which she claims compensation is causally related to that employment injury.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether “fact of injury” has been established.<sup>6</sup> 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.<sup>7</sup> Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup> An employee may establish that the employment incident occurred as alleged but fail to show that his or her disability or condition relates to the employment incident.<sup>9</sup>

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty 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 employee.<sup>11</sup> The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.<sup>12</sup>

### ANALYSIS

Appellant alleged that, on July 12, 2012, she sustained a right arm injury when she fired a shotgun for qualification at work. OWCP accepted that the July 12, 2012 incident occurred as alleged but found that the medical evidence was insufficient to establish that she sustained an injury causally related to the accepted incident. The Board finds that the medical evidence is insufficient to establish a right arm condition causally related to the July 12, 2012 employment incident.

Appellant submitted medical reports by Drs. Winko and Kao. In a July 19, 2012 office note, Dr. Winko diagnosed multiple right arm contusions. No history of the accepted incident was recorded. In an August 13, 2012 EMG/NCV report, Dr. Kao diagnosed mild right carpal

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<sup>5</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>7</sup> *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

<sup>8</sup> *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

<sup>10</sup> *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>11</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>12</sup> *James Mack*, 43 ECAB 321 (1991).

tunnel syndrome and right forearm and elbow tendinitis. While Drs. Winko and Kao listed diagnoses on examination, neither physician provided a history of the July 12, 2012 incident at work or of any prior injury. They did not address the cause of appellant's right arm contusions or right forearm and elbow tendinitis. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>13</sup> The reports of record are insufficient to establish appellant's claim.

Appellant also submitted an August 6, 2012 duty status form report by Dr. Gopalan, who diagnosed brachial plexus injury. Dr. Gopalan noted generally that appellant worked as a police officer and that the injury occurred because of a "shooting qualification, shotgun kickback." Although she provided a medical diagnosis and mentioned a shooting qualification, she did not provide a full history of the July 12, 2012 incident or explain how appellant's right arm condition was caused or aggravated by a shooting incident. Appellant failed to provide any date of injury or describe the nature of the shooting incident. The Board has found that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.<sup>14</sup> The Board finds that Dr. Gopalan's opinion that appellant's injury occurred from a shooting qualification is of limited probative value on the issue of causal relationship. Dr. Gopalan does not adequately explain how the July 12, 2012 employment incident caused appellant's right arm condition.

On appeal, appellant noted that she was diagnosed with multiple contusions and pinched nerve damage and that her primary care physician stated that he believed her injuries were caused by shooting a shotgun while qualifying at the range at work. The Board notes that causal relationship is a medical issue that can only be shown by reasoned medical opinion evidence that is based on an accurate history and supported by medical rationale.<sup>15</sup> Appellant failed to provide such sufficient medical evidence in this case. Thus, the Board finds that she did not meet her burden of proof to establish that her right arm condition was causally related to the July 12, 2012 employment incident.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not establish that her right arm condition was causally related to the July 12, 2012 employment incident.

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<sup>13</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

<sup>14</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-975 (February 6, 2009).

<sup>15</sup> *Supra* note 8.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 13, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 20, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board