



## ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury on February 12, 2015 in the performance of duty.

## FACTUAL HISTORY

On February 18, 2015 appellant, then a 41-year-old supervisory criminal investigator, filed a traumatic injury claim (Form CA-1) alleging that, on February 12, 2015, he suffered a stroke while on temporary-duty status in Dubai, United Arab Emirates. He indicated that he was unaware of the cause of his stroke. Appellant reported that on February 12, 2015 a coworker, Ms. L, became concerned when she did not see him, knocked on the door of his room, opened the door, and found that he was in need of medical attention and rushed him to the hospital.

OWCP received appellant's claim on February 25, 2015. Appellant provided nurses' records from February 20 through 22, 2015. These records provided that he sustained an ischemic stroke of the left middle cerebral artery (MCA) shortly after arriving in the United Arab Emirates. Appellant was initially evaluated in Dubai and his symptoms included profound decrease in motor function of the right upper and lower extremity with right upper extremity flaccidity, right facial droop, and expressive aphasia. The records reported that no etiology for the source of his stroke had been identified. Appellant received home healthcare on March 17, 2015 from Kathryn B. Hunter, a licensed clinical social worker. On March 25, 2015 he received treatment at Sinai Hospital for a left MCA stroke and aphasia. In a note dated March 27, 2015, Hannah Freedman, a speech language pathologist, provided appellant with a speech-language evaluation due to his stroke. Appellant received physical therapy from Stacy Davis on March 30, 2015.

In a telephone memorandum dated April 24, 2015, OWCP noted that appellant's claim was created as a short form closure case as it had appeared initially to be a claim that was minor in nature. It reopened his claim as the medical bills exceeded \$1,500.00. OWCP provided appellant with a letter dated April 24, 2015 and informed him that the merits of his claim had not been formally considered. It requested that he provide additional factual and medical evidence regarding whether his diagnosed stroke was due to his federal employment.

Dr. Melinda-Ann Roth, a physiatrist, examined appellant on April 20, 2015 and completed an attending physician's report (Form CA-20) on April 24, 2015. She diagnosed cerebral vascular accident (CVA) with hemiplegia affecting the dominant side, cognitive deficit, facial weakness, abnormality of gait, and mild expressive aphasia. Dr. Roth did not indicate whether appellant's condition was caused or aggravated by his employment noting that he suffered a stroke while on work-related travel. She concluded, "I cannot speak to causation as I am first seeing [appellant] two months after his stroke."

In a note dated March 3, 2015, Dr. Sarah A. Eby, a physiatrist, reported that she treated appellant at Sinai Hospital for deficits resulting from a stroke on February 12, 2015. She described his physical deficits from the stroke including right-sided hemiparesis, impaired speech, communication, balance, coordination, cognition, memory, and ability to perform activities of daily living. Dr. Eby reported that appellant was totally disabled. She completed an

attending physician's report (Form CA-20) in March 2015 and indicated that she was unable to determine the cause of his stroke.

The employing establishment provided appellant's travel documents, which indicated that he flew to Dubai on February 10, 2015. Appellant's coworker, Ms. L, indicated that she and appellant arrived in Dubai on February 11, 2015 to perform advance duties in support of a protective service mission. On February 12, 2015 appellant did not appear for the first meeting and she visited his hotel room after becoming concerned because he did not reply to text messages or telephone calls. He opened the door, but was visibly disoriented. Appellant indicated to her that he did not know if he was all right. Ms. L, who was familiar with strokes due to her family history, recognized the symptoms, and requested immediate medical assistance. Appellant was transported to the hospital in Dubai until February 20, 2015, then to military medical facilities in Qatar and Germany before returning to the United States on February 27, 2015.

Dr. Yasir Mehmood Malik, completed a sick leave certificate from Rashid Hospital in Dubai, on February 19, 2015 diagnosing ischemic stroke and noting that appellant was hospitalized on February 13, 2015.

In his narrative statement on May 13, 2015, appellant reported that he traveled to Dubai to conduct a protection detail. He arrived on February 11, 2015, checked into his hotel, went to dinner, and woke up without incident on February 12, 2015. Appellant scheduled meetings by telephone, worked out at the hotel gymnasium, and went to breakfast with Ms. L. He then returned to his room to shower and dress for the meetings. After showering, appellant attempted to dress, but fell when he stood up. He repeatedly tried to stand, but one side of his body would not work. Appellant was distraught and confused, unable to remember any of his codes for his telephones. He was unable to speak when Ms. L telephoned him and she eventually knocked on the door of his room. Ms. L assessed appellant's condition and called for emergency personnel. Appellant received treatment at the emergency room at Rashid Hospital in Dubai. He alleged that he received substandard treatment, was left in soiled bedding, and ignored. Appellant was discharged from Rashid Hospital on February 20, 2015 in route to Qatar Air Base where he stayed for two days. He then traveled to Germany on an Air Force Medevac and was hospitalized there for five days before returning to a Sinai Hospital in the United States.

Appellant denied any potentially contributory activities or factors such as stress, high blood pressure, high cholesterol, or heart problems. He reported his first symptoms on February 12, 2015 and denied any previous stroke symptoms. Appellant indicated that his activities prior to his stroke included travel preparation, attending a basketball game, and air travel on February 10, 2015. He denied ever smoking tobacco products and indicated that he seldom drank alcohol.

Dr. Lawrence Vidaver, an internist, completed a Form CA-20 on May 12, 2015 and diagnosed acute stroke. He indicated "yes" indicating that appellant's condition was caused or aggravated by an employment activity and noted that appellant was on duty for the employing establishment in a hostile environment.

Appellant's supervisor, Mr. F, completed a statement and explaining that appellant was on official travel at the time of his stroke. He noted that appellant was performing his duties on February 12, 2015, which included airport, hotel, hospital, and site surveys. Mr. F reported that appellant's stroke occurred in his hotel room. He noted that appellant's job could be perceived as stressful as he was a law enforcement officer, as he was traveling to a foreign country where some entities were hostile to Westerners, and as performing protection duties in general was stressful due to the number of potential issues.

In a letter dated May 14, 2015, OWCP requested that Dr. Eby, appellant's treating physician, review the factual evidence including statements from appellant, Mr. F, and Ms. L, to determine if there was a cause and effect relationship between appellant's work duties and his stroke. It provided Dr. Eby with the various forms of causal relationship under FECA. Dr. Eby responded on May 20, 2015 and noted that she was unable to opine whether or not appellant's stroke was directly related to his employment as the etiology of his stroke was unclear. She suggested that OWCP contact a neurologist with specialization in strokes.

OWCP contacted Dr. Carsten Ritter, a treating Board-certified neurologist, on May 20, 2015 and asked that he review the factual statements to determine whether or not that there was a cause and effect relationship between appellant's work duties and his stroke. It provided Dr. Ritter with the definitions of causation under FECA. Dr. Ritter responded on June 9, 2015 and opined that appellant's stroke was thromboembolic due to atherosclerotic disease of the internal carotid artery in the neck. He noted that there was no evidence of dissection, an injury to the inner lining of the blood vessel, which was often caused by trauma. Dr. Ritter further opined that appellant's stroke could have occurred spontaneously with or without his travel assignment in Dubai. However, he noted that stress had been shown to enhance arterial thrombosis and that appellant's work may have indirectly contributed or accelerated the event.

By decision dated June 30, 2015, OWCP denied appellant's claim as the medical evidence failed to demonstrate that the claimed medical condition was related to work events.

Appellant requested an oral hearing from OWCP's Branch of Hearings and Review on July 28, 2015. He submitted a report dated August 5, 2015 from Dr. Iqbal Singh, a physician Board-certified in vascular neurology. Dr. Singh noted appellant's history of a CVA on February 12, 2015 following a 14-hour flight to Dubai. He reviewed a magnetic resonance imaging scan of appellant's brain, which demonstrated a large left MCA and CVA. Dr. Singh diagnosed left MCA and CVA probably due to deep vein thrombosis (DVT) due to the long plane ride with paradoxical embolism right to left across the patent foramen ovale (PFO).<sup>3</sup> He opined, "This is a typical setting of somebody having a long plane ride and then having a CVA." Dr. Singh recommended further testing to look for a PFO and any DVT, which may be resolving.

Appellant testified at the oral hearing before an OWCP hearing representative on December 21, 2015. He described his physical condition at the time of his stroke and noted that he exercised three to five times a week running four miles and lifting weights. Appellant testified that he left the Army and proceeded directly to the Pentagon Force Protection Agency. He passed an employing establishment physical in December 2014. Appellant flew to Dubai

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<sup>3</sup> A PFO is a congenital hole in the heart that failed to close in infancy.

from Washington Dulles airport on a nonstop flight of 14½ hours from February 10 through 11, 2015. He noted that, while he had flown to Dubai before, he generally had a connecting rather than nonstop flight. Appellant slept all of the flight, as he had not slept the 32 hours before.

After landing in Dubai, appellant's legs were tight, but he did not think it a problem. He and Ms. L then rented a car and drove to their hotel. The next morning, appellant exercised in the hotel gym for 1 hour and 45 minutes, jumping rope, lifting weights, and using the treadmill. Following his exercise, he went directly to brunch with Ms. L and then to his room to shower and change. Appellant made work calls and then laid down for an hours nap. He woke up from his nap and found that he could not talk and did not know where he was. Appellant was unable to walk to the bathroom, so he crawled and then dressed as best as he could. Ms. L found him a few hours later and recognized the symptoms of a stroke. Paramedics then transported appellant to the hospital.

Appellant denied any family history of strokes or high blood pressure. He noted that three weeks prior to his trip to Dubai, an American teacher was killed in Abu Dhabi by terrorists. Appellant asserted that this changed how the employing establishment and he approached his mission in Dubai. The hearing representative allowed him 30 days to submit additional medical evidence.

By decision dated March 17, 2016, OWCP's hearing representative reviewed the medical evidence. She found that Drs. Eby and Roth failed to provide conclusive opinions regarding the causal relationship between appellant's stroke and his employment activities. OWCP's hearing representative noted that Dr. Ritter's opinion was speculative and found that Dr. Vidaver's opinion was without medical reasoning in support of his findings of causal relationship. She reviewed Dr. Singh's August 2015 report and found that it was speculative and not supported by rationale. OWCP's hearing representative determined that appellant had not provided sufficient medical opinion evidence with rationale explaining how the February 12, 2015 work events resulted in his diagnosed condition of stroke.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that his or her condition is causally related to factors of his or her federal employment. Where an employee is on a temporary-duty assignment away from his or her regular place of employment, he or she is covered by FECA 24 hours a day with respect to any injury that results from activities essential or incidental to his or her temporary assignment.<sup>4</sup>

However, the fact that an employee is on a special mission or in travel status during the time a disabling condition manifests itself does not raise an inference that any condition is thereby causally related to the employment. A condition that occurs spontaneously during a

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<sup>4</sup> *J.E.*, Docket No. 16-0560 (issued June 2, 2016); *Susan A. Firkins*, 57 ECAB 630 (2006); *Cherie Hutchings*, 39 ECAB 639 (1988).

special mission or in travel status is not compensable.<sup>5</sup> The medical evidence must establish a causal relationship between the condition and factors of employment.<sup>6</sup> Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence. Such opinion of the physician must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the employment.<sup>7</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury on February 12, 2015 in the performance of duty.

Appellant, a supervisory criminal investigator, was directed to fly to Dubai for a temporary-duty assignment. This assignment occurred three weeks after an American school teacher was murdered in Abu Dhabi. Appellant traveled on a 14-hour direct flight from Washington Dulles airport to Dubai on February 10, 2015, arriving on February 11, 2015. He testified that he slept for the entire flight and that his legs were tight after the flight. The following day, February 12, 2015, appellant awoke, exercised, ate, and made work-related telephone calls in a normal manner. Appellant then experienced an ischemic stroke of the left MCA. OWCP accepted that the employment incident occurred as alleged, but denied his traumatic injury claim finding that he failed to establish causal relationship between his diagnosed condition and his employment incident.

Appellant submitted reports from Drs. Eby and Roth in support of his traumatic injury claim. Dr. Roth did not offer an opinion as to whether appellant's condition was caused or aggravated by his employment. She declined to address this issue as she first examined appellant two months after his stroke. As Dr. Roth did not provide an opinion on the cause of appellant's condition, her report is insufficient to establish causal relationship.<sup>8</sup> Dr. Eby examined appellant for the first time on February 12, 2015 and completed an attending physician's report (Form CA-20) in March 2015. She indicated that she was unable to determine the cause of his stroke. Neither of these physicians offered an opinion on the causal relationship between appellant's diagnosed stroke and his employment. Therefore, these reports do not meet his burden of proof to establish causal relationship between his stroke and his employment on February 12, 2015.<sup>9</sup>

Dr. Vidaver completed a form report on May 12, 2015 diagnosing a stroke. He indicated by checking a box marked "yes" indicating that appellant's condition was caused or aggravated by an employment activity and noted that appellant was on-duty for the employing establishment in a hostile environment. The Board has held that an opinion on causal relationship which consists

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<sup>5</sup> *J.E., id.; Y.H.*, Docket No. 09-1271 (issued January 5, 2010).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *D.R.*, Docket No. 16-0528 (issued August 24, 2016).

<sup>9</sup> *Id.*

only of a physician checking “yes” to a medical form report question on whether the claimant’s condition was related to the employment is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>10</sup>

Dr. Ritter completed a report on June 9, 2015 and opined that appellant’s stroke was thromboembolic due to atherosclerotic disease of the internal carotid artery in the neck. He opined that appellant’s stroke could have occurred spontaneously with or without his travel assignment in Dubai. Dr. Ritter noted that stress had been shown to enhance arterial thrombosis and that appellant’s work may have indirectly contributed or accelerated the event.

Appellant also submitted an August 5, 2015 report Dr. Singh, who noted appellant’s history of a CVA on February 12, 2015 following a 14-hour flight to Dubai. Dr. Singh attributed appellant’s stroke to DVT that developed due to the long plane ride. He postulated that appellant experienced a paradoxical embolism right to left across the PFO. Dr. Singh supported his conclusion by noting that this would be typical of somebody having a long plane ride and then having a CVA. He recommended further testing to determine if appellant had a PFO and resolving DVT.

The Board finds that Dr. Ritter’s and Dr. Singh’s opinions are speculative in nature, as Dr. Singh requested additional testing and Dr. Ritter indicated that appellant’s job stress could have contributed to his stroke. Due to these deficiencies, these reports are insufficient to establish causal relationship between appellant’s diagnosed condition and his employment.<sup>11</sup> Therefore, the Board finds that appellant has not met his burden of proof.

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 has not met his burden of proof to establish a traumatic injury on February 12, 2015 in the performance of duty.

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<sup>10</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

<sup>11</sup> *See N.C.*, Docket No. 15-1900 (issued March 7, 2016) (medical reports that are speculative in nature are of diminished probative value).

**ORDER**

**IT IS HEREBY ORDERED THAT** March 17, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 10, 2017  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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