

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**T.W., Appellant**

**and**

**DEPARTMENT OF THE TREASURY,  
BUREAU OF ENGRAVING & PRINTING,  
Fort Worth, TX, Employer**

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**Docket No. 17-1908  
Issued: February 16, 2018**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On September 11, 2017 appellant filed a timely appeal from an August 18, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that his degenerative left knee condition was causally related to factors of his federal employment.

On appeal appellant asserts that factors of his federal employment are making his preexisting condition worse.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On June 12, 2017 appellant, then a 59-year-old bookbinder assistant supervisor, filed an occupational disease claim (Form CA-2), alleging that walking on concrete floors in required safety shoes in the performance of duty for many years exacerbated his degenerative arthritis of the left knee. He indicated that he initially became aware of the condition on June 9, 2014 and its relationship to his federal employment on March 27, 2017. In an attached statement, appellant indicated that in about 2014 he had left knee surgery and began injections in his left knee in June 2016 and noted that his health insurance did not cover all the needed injections. He maintained that he would continue to need injections until a left knee replacement was necessary, and that walking in steel-toed shoes altered his gait. Appellant indicated that he worked many 12-hour days and described job duties of using floor jacks, moving loads around, lifting, and carrying, twisting, turning, and abruptly stopping -- all of which jarred and jerked his knee. He further related that he was expected to walk upstairs quickly in order to address small emergencies and perceived emergencies encountered each workweek. Appellant concluded that he was forced to work long hours and weekends which put more stress on his knee.

A May 16, 2011 magnetic resonance imaging (MRI) scan of the left knee provided by Dr. Vaibhav Khasgiwala, the interpreting physician, demonstrated a tear of the posterior horn of the medial meniscus, moderate chondromalacia, moderate joint effusion, and the suggestion of a low grade sprain.

In a June 9, 2014 report, Dr. John Ribeiro, a Board-certified orthopedic surgeon, noted left knee examination findings of crepitus, parapatellar and joint line tenderness, with normal stability. He reviewed a left knee x-ray noting mild-to-moderate degenerative changes and diagnosed left knee pain and degenerative joint disease of the left knee. Dr. Ribeiro injected appellant's left knee. In a February 22, 2016 report, he noting seeing appellant for a left knee injection. Dr. Ribeiro described symptoms of pain, difficulty walking, stiffness, and swelling. He noted that appellant was obese and described left knee examination findings of joint line tenderness and a positive patellar grind test. Range of motion was within normal limits. Left knee x-ray demonstrated advanced degenerative joint disease.

In correspondence dated June 13, 2017, V.P., an employing establishment human resources benefits specialist, maintained that there was no evidence to support that the claimed condition was caused or aggravated by appellant's federal employment.

By development letter dated June 19, 2017, OWCP informed appellant of the type of evidence needed to support his claim, including a comprehensive medical report in which his physician explained how his federal employment duties caused, contributed to, or aggravated his claimed condition. In a separate letter that day it asked the employing establishment to respond with comments from a knowledgeable supervisor on the accuracy of appellant's statements.

A position description for bookbinder assistant supervisor was submitted by the employing establishment. It did not include a description of the physical requirements of the position. In correspondence dated June 29, 2017, V.P. reiterated the employing establishment's position that no work injury occurred and that the medical evidence was insufficient to establish causal relationship. In statements dated June 22 and 23, 2017, F.P., an employing establishment

supervisor, advised that appellant did a fair amount of walking on concrete in his position, and that he had worked 6- and 7-day weeks, and 12-hour days. F.P. further indicated that appellant regularly used a variety of material handling equipment such as electric and manual lifts, and racks containing currency which could weigh in excess of 1,400 pounds.

On June 23, 2017 appellant completed an OWCP questionnaire in which he reiterated that he worked long days and walked on concrete up to seven days weekly, and that he used equipment which aggravated his left knee condition. He indicated that he could no longer run and did some weight lifting. Appellant maintained that his work duties exacerbated his preexisting degenerative condition.

On July 17, 2017 V.P. noted that appellant was allowed to sit in an office the majority of his shift, and that the employing establishment furnished two pairs of safety shoes per year. She forwarded undated correspondence in which Dr. Ribeiro indicated that appellant had been undergoing treatment for degenerative joint disease in the left knee. Dr. Ribeiro noted that appellant previously had left knee surgery to remove damaged articular cartilage. He related that appellant's current condition was not related to a work incident, was controlled with injections, and was degenerative in nature. Dr. Ribeiro indicated that appellant's job demands required that he work on hard surfaces and wear certain footwear which would most certainly worsen his degenerative condition over time. He advised that appellant would ultimately require a total knee arthroplasty due to the degenerative nature of his condition. A treatment note dated May 24, 2017 indicated that appellant's left knee was injected.

By decision dated August 18, 2017, OWCP denied the claim. It found that Dr. Ribeiro did not provide sufficient rationale to establish that accepted work factors caused the diagnosed conditions.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, and that the claim was timely filed within the applicable time limitation period of FECA.<sup>3</sup> When an employee claims that he or she sustained an injury in the performance of duty,<sup>4</sup> he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged.<sup>5</sup> The employee must also establish that such event, incident, or exposure

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<sup>2</sup> *Id.*

<sup>3</sup> 5 U.S.C. § 8101(1); *L.M.*, Docket No. 16-0143 (issued February 19, 2016); *B.B.*, 59 ECAB 234 (2007).

<sup>4</sup> *Id.* at § 8102(a).

<sup>5</sup> *J.C.*, Docket No. 16-0057 (issued February 10, 2016); *E.A.*, 58 ECAB 677 (2007).

caused an injury.<sup>6</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>7</sup>

OWCP regulations define the term “occupational disease or illness” as a condition produced by the work environment over a period longer than a single workday or shift.”<sup>8</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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 claimant.<sup>9</sup>

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, 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> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>12</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his degenerative left knee condition was causally related to factors of his federal employment.

The May 16, 2011 MRI scan interpreted by Dr. Khasgiwala did not provide a cause of any diagnosed conditions. 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>

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

<sup>7</sup> *R.H.*, 59 ECAB 382 (2008).

<sup>8</sup> 20 C.F.R. § 10.5(ee).

<sup>9</sup> *Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>10</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>11</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>12</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>13</sup> *Willie M. Miller*, 53 ECAB 697 (2002).

The only report that discussed causal relationship was Dr. Ribeiro's undated report. This report, however, was of insufficient rationale to establish that the diagnosed condition was caused or aggravated by appellant's federal employment. In that report, while Dr. Ribeiro noted that appellant previously had left knee surgery to remove damaged articular cartilage, and that he was being treated with injections, he merely reported that appellant had to work on hard surfaces and wear certain footwear which would most certainly worsen his degenerative condition over time. He advised that appellant would ultimately require a total knee arthroplasty due to the degenerative nature of his condition.

To establish causal relationship, a claimant must submit a physician's report in which the physician reviews the employment factors identified as causing the claimed condition and, taking these factors into consideration as well as findings upon examination, states whether the employment injury caused or aggravated the diagnosed conditions and presents medical rationale in support of his or her opinion.<sup>14</sup> The Board finds Dr. Ribeiro's opinion conclusory and insufficient to meet appellant's burden of proof.<sup>15</sup>

As the record contains insufficient explanation regarding whether appellant's left knee degenerative condition was caused or aggravated by his federal employment, he did not meet 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 that his left knee degenerative condition was causally related to factors of his federal employment.

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<sup>14</sup> *J.M.*, 58 ECAB 303 (2007).

<sup>15</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 18, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 16, 2018  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board