

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

K.R., Appellant	)	
	)	
and	)	<b>Docket No. 18-0711</b>
	)	<b>Issued: September 6, 2018</b>
U.S. POSTAL SERVICE, POSTAL	)	
INSPECTION SERVICE, Potomac, MD,	)	
Employer	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On February 15, 2018 appellant filed a timely appeal from a January 4, 2018 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 her burden of proof to establish a right wrist injury causally related to the accepted factors of her federal employment.

**FACTUAL HISTORY**

On October 17, 2016 appellant, then a 26-year-old student postal inspector, filed a traumatic injury claim (Form CA-1) alleging that on October 11, 2016 she sustained a right wrist

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

injury as a result of “pt exercise/firearm shooting” while in the performance of duty. She did not stop work.

In an October 17, 2016 authorization for examination and/or treatment (Form CA-16), received by OWCP on October 20, 2016, the employing establishment authorized treatment for appellant’s right wrist at Suburban Hospital.

Appellant received medical treatment in the emergency room by Erin Nur Ozdogan, a certified physician assistant. In an October 17, 2016 hospital record, Ms. Ozdogan related that appellant had complained of right wrist pain radiating into the dorsum of her right hand since last week. Appellant had informed her that the problem had begun gradually during physical training and weapons training program for becoming a postal inspector. Upon physical examination of appellant’s right wrist, Ms. Ozdogan observed tenderness and normal range of motion. A right wrist x-ray examination report showed no acute fracture and well-preserved joint spaces. Ms. Ozdogan diagnosed right wrist tendinitis and overuse syndrome of the right hand.

Ms. Ozdogan also completed duty status (Form CA-17) and attending physician’s reports (Form CA-20) dated October 17, 2016. She noted a date of injury of October 11, 2016 and described: “most likely from TM/PT/range.” Ms. Ozdogan diagnosed right wrist and hand tendinitis. In the Form CA-20, she checked a box marked “yes” indicating that appellant’s condition was caused or aggravated by “overuse due to training.”

In a Form CA-20 dated October 22, 2016, Dr. Timothy Bhattacharyya, a Board-certified orthopedic surgeon, noted an October 11, 2016 date of injury and diagnosed right wrist scapholunate ligament strain. He checked a box marked “yes” indicating that appellant’s condition was caused or aggravated by the described employment activity. Dr. Bhattacharyya indicated that appellant was advised to resume regular work on October 31, 2016.

Dr. Bhattacharyya further indicated in an October 26, 2016 report that he had treated appellant for complaints of right wrist pain for the past two weeks. He noted: “the problem was caused by a work accident (onset of right wrist pain was due to physical training endured while at work).” Upon physical examination of appellant’s right hand, Dr. Bhattacharyya observed tenderness over the scapholunate joint of appellant’s right hand, but otherwise indicated a normal examination. He noted that a right wrist x-ray scan report demonstrated no evidence of fractures, dislocations, or degenerative changes. Dr. Bhattacharyya diagnosed sprain of the right scapholunate ligament and completed a Form CA-17, which indicated that appellant could return to full duty.

OWCP received an October 25, 2016 letter by, N.C., the inspector in charge at the employing establishment. N.C. informed appellant that she would be allowed to continue in basic inspector training with her medical restrictions.

In a November 9, 2016 report, Dr. Bhattacharyya indicated that appellant had minimal improvement since her previous examination. He reviewed appellant’s history and provided examination findings similar to his previous report. Dr. Bhattacharyya reported that appellant’s examination was consistent with tendinitis. He diagnosed sprain of scapholunate ligament on the right. Dr. Bhattacharyya completed a Form CA-17, which indicated that appellant could return to full-duty employment.

Appellant was also treated by Dr. Daniel Polatsch, a Board-certified orthopedic surgeon. In a December 6, 2016 report, he related that appellant was a student postal inspector who started to develop wrist pain when involved in training in early October 2016. Dr. Polatsch discussed the medical treatment appellant had received and noted that she had been on modified duty since the injury. Upon physical examination of appellant's right hand and wrist, he observed metacarpal phalangeal hyperextension of digits two through five and tenderness over the ulnar side, but no tenderness over the dorsal wrist or scapholunate ligament. Dr. Polatsch also noted point tenderness over the index carpometacarpal (CMC) joint with possibly a small carpal boss. He diagnosed chronic right wrist pain, ligament laxity, and repetitive stress injury. Dr. Polatsch related that appellant did not have a "specific history of trauma" and opined that there was "likely an element of repetitive stress syndrome."

In a March 8, 2017 report, Dr. Polatsch treated appellant for follow up of right wrist pain. He noted that appellant had participated in occupational therapy for the past month and related that all her symptoms had resolved, except for stiffness. Upon physical examination of appellant's right wrist, Dr. Polatsch observed no swelling, ecchymosis, or edema. Neurovascular examination was intact. Dr. Polatsch diagnosed chronic right wrist pain, ligament laxity, and repetitive stress injury. In a Form CA-17, he noted that appellant could return to full duty.

In a September 5, 2017 development letter, OWCP acknowledged receipt of appellant's claim and supporting evidence. It advised appellant that the evidence submitted was insufficient to establish her claim. OWCP provided appellant a factual questionnaire to complete and return and requested additional medical evidence in support of her claim. It afforded her 30 days to submit the requested medical evidence and factual information.

On September 22, 2017 OWCP received appellant's response to its questionnaire. Appellant reported that she wanted to claim an occupational disease, instead of a traumatic injury, because the training activities that resulted in the injury happened over a period longer than one workday. She explained that on September 19, 2016 she began a 12-week federal law enforcement basic training program in Potomac, Maryland. Appellant noted that the program included physical training, threat management exercises, and firearms training. She indicated that she participated in physical training for at least one hour, three times a week, which required several repetitions of pushups, burpees, and pull-ups. Appellant also participated in threat management exercises for four hours, twice a week, which included repeatedly getting handcuffed and put in wrist-locks. She completed four hours of firearms training, twice a week, which involved racking and locking of the slide on the firearm and shooting with a loaded firearm. Appellant indicated that on October 11, 2016 she began to experience wrist pain during firearms training. She asserted that she did not engage in any recreational activities while at basic training and noted that she engaged in general computer usage while at training.

In a September 22, 2017 report, Dr. Polatsch indicated that he had treated appellant for a work-related injury. He reported: "I certainly believe that the patient's symptoms were in part aggravated by her employment-related activities. Certainly, repetitive use and the training program she describes could contribute to her wrist pain and thumb pain."

By decision dated October 20, 2017, OWCP, based on appellant's response to the development questionnaire, administratively converted her traumatic injury claim to an occupational disease claim, which it denied. It accepted appellant's employment duties as a

student postal inspector and a diagnosis of a right wrist strain/sprain and ligament laxity, but denied her claim because the medical evidence submitted was insufficient to establish that her right wrist condition was causally related to her federal employment duties.

On December 26, 2017 appellant requested reconsideration.

OWCP received Dr. Bhattacharyya's November 9, 2016 report with an addendum. Dr. Bhattacharyya indicated that appellant developed right wrist pain while at work. He explained that appellant was firing a gun for training quite competitively, and participating in field exercises as a part of her investigative training. Dr. Bhattacharyya reported that physical examination was consistent with scapholunate sprain and extensor tenosynovitis, which was usually treated with injections. He reported that "this note is to clarify that the wrist strain was work related and began on or about October 11, 2016."

By decision dated January 4, 2018, OWCP denied modification of the October 20, 2017 decision. It found that the medical evidence submitted was insufficient to establish that her right wrist condition was causally related to factors of her federal employment.

### **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 by the weight of the reliable, probative, and substantial evidence<sup>3</sup> including that he or she sustained an injury in the performance of duty, and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>4</sup>

In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>6</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

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

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>4</sup> *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

<sup>6</sup> *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>7</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a causal relationship between her right wrist condition and the accepted factors of her federal employment.<sup>8</sup>

Appellant was treated by Dr. Bhattacharyya. In an October 26, 2016 report, Dr. Bhattacharyya related appellant's complaints of right wrist pain for the past two weeks. Upon initial physical examination of appellant's right hand, he noted normal examination except for tenderness over the scapholunate joint. Dr. Bhattacharyya diagnosed sprain of the right scapholunate ligament. He indicated that the "onset of right wrist pain was due to physical training endured while at work." In a November 9, 2016 addendum report, Dr. Bhattacharyya further described that appellant was firing a gun and participating in field exercises as part of her investigative training. He reiterated that appellant's right wrist strain was work related and began on or about October 11, 2016.

Although Dr. Bhattacharyya attributed appellant's right hand condition to her training program, he did not provide medical rationale or explanation to support his affirmative opinion on causal relationship. 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>9</sup> The Board has found that rationalized medical opinion evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician.<sup>10</sup> Dr. Bhattacharyya did not sufficiently explain how the described duties of firing a gun and participating in field exercises could contribute to appellant's right wrist condition. This report, therefore, is insufficient to establish causal relationship.

In a Form CA-20, Dr. Bhattacharyya also checked a box marked "yes" indicating that appellant's condition was caused or aggravated by the described employment activity. He did not, however, provide an explanation to support his affirmative opinion. The Board has held that a checkmark or affirmative notation in response to a form question on causal relationship is insufficient, without medical rationale, to establish causal relationship.<sup>11</sup> For these reasons, the Board finds that his reports are insufficient to establish appellant's occupational disease claim.

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<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>8</sup> The Board notes that appellant initially filed a Form CA-1, claiming a traumatic injury. Appellant later indicated that she was claiming an occupational disease because her alleged injury occurred over several weeks of activities. OWCP regulations define an occupational illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(ee). Accordingly, the Board finds that OWCP properly adjudicated appellant's claim as an occupational disease.

<sup>9</sup> *T.M.*, Docket No. 08-0975 (February 6, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>10</sup> *L.F.*, Docket No. 10-2287 (issued July 6, 2011); *Solomon Polen*, 51 ECAB 341 (2000).

<sup>11</sup> *K.T.*, Docket No. 15-1758 (issued May 24, 2016).

Appellant also submitted reports by Dr. Polatsch dated December 6, 2016 to March 8, 2017. In a December 6, 2016 report, Dr. Polatsch indicated that appellant started to develop wrist pain in October 2016 while she was involved in training to become a postal inspector. He provided examination findings and diagnosed chronic right wrist pain, ligament laxity, and repetitive stress injury. Dr. Polatsch reported that appellant's injury was "likely an element of repetitive stress syndrome." In a September 22, 2017 report, he further opined that appellant's symptoms were "in part" aggravated by her employment-related activities. Dr. Polatsch explained that "certainly repetitive use and the training program [appellant] describes could contribute to her wrist pain and thumb pain."

The Board notes that Dr. Polatsch accurately discussed appellant's employment training in October 2016 and provided diagnosed conditions based on physical examination. Dr. Polatsch's opinion that appellant's right wrist injury was "likely an element of repetitive stress syndrome," however, is speculative in nature. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>12</sup> Dr. Polatsch did not definitively opine that appellant's right wrist condition was a result of appellant's training activities. He merely reported that the training program "could contribute" to her current symptoms. An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is causal relationship between her claimed condition and her employment.<sup>13</sup> For this reason, these reports are insufficient to establish appellant's claim.

The remaining October 17, 2016 hospital record and CA-17 and CA-20 forms by Ms. Ozdogan, a certified physician assistant, are of no probative value to establish appellant's claim as physician assistants are not considered physicians under FECA.<sup>14</sup> For this reason, this evidence is insufficient to meet appellant's burden of proof.

On appeal appellant alleges that her physicians had provided enough information to support a causal relationship between her condition and the activities she participated in at Basic Inspector Training. As explained above, however, the medical evidence of record contains no reasoned explanation of how appellant's training activities caused or aggravated her diagnosed condition. Causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>15</sup> The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a

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<sup>12</sup> *D.D.*, 57 ECAB 734, 738 (2006); *Kathy A. Kelley*, 55 ECAB 206 (2004).

<sup>13</sup> *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

<sup>14</sup> *See M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.404; *Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>15</sup> *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

disabling condition.<sup>16</sup> As appellant has not provided such rationalized medical evidence showing that her accepted employment duties caused or aggravated her right wrist condition, she has not met her burden of proof to establish her claim.<sup>17</sup>

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 her burden of proof to establish a right wrist injury causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the January 4, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 6, 2018  
Washington, DC

Christopher J. Godfrey, 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

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<sup>16</sup> *Patricia J. Bolleter*, 40 ECAB 373 (1988).

<sup>17</sup> The Board notes that a Form CA-16 authorization for examination and/or treatment was issued by the employing establishment on October 17, 2016. When the employing establishment properly executes a Form CA-16 authorizing medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c); *Tracy P. Spillane*, 54 ECAB 608, 610 (2003).