

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

C.A., Appellant)	
)	
and)	Docket No. 20-1297
)	Issued: March 18, 2021
DEPARTMENT OF DEFENSE, DEFENSE)	
INTELLEGENGE AGENCY, Quantico, VA,)	
Employer)	
)	

Appearances:
*Appellant, pro se*¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On June 15, 2020 appellant, through then counsel, filed a timely appeal from a December 19, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 20-1297.

On July 19, 2017 appellant, then a 39-year-old counterintelligence officer, filed an occupational disease claim (Form CA-2) alleging that he sustained post-traumatic stress disorder (PTSD) and severe combat stress trauma due to factors of his federal employment. On the reverse side of the claim form the employing establishment indicated that he stopped work on October 16, 2015 and that his medical reports showed that he was disabled from work.

In an attached statement dated July 6, 2017, appellant contended that his PTSD was the result of combat stress trauma caused by countless near-death experiences over the course of his civilian employment. He related that the employing establishment sent him on three deployments to Afghanistan and Iraq during periods in 2007 to 2008, 2011, and 2013, and that, upon his return home in 2013, he had trouble assimilating back into normal life. By 2015, appellant related that he was depressed and had anxiety, panic attacks, insomnia, and nightmares. He explained that he

¹ The Board notes that counsel withdrew her representation subsequent to the filing of the current appeal.

was also in the Army Reserves and that his commander, in conjunction with his employing establishment supervisor, obtained assistance from the military at an employing establishment facility where he was treated for PTSD from June to October 2016. Appellant indicated that his psychiatric mental health nurse practitioner advised that his psychiatric disorders were a direct result of his combat experiences while an employee at the employing establishment. He concluded that the effects of PTSD rendered him unable to work.

In a development letter dated August 17, 2017, OWCP informed appellant that additional evidence was needed in support of his claim. It advised him of the type of factual and medical evidence necessary and attached a questionnaire for his completion. OWCP afforded appellant 30 days to provide the requested evidence.

In a separate development letter dated August 17, 2017, OWCP requested that the employing establishment provide additional information concerning appellant's claim.

By decision dated October 12, 2017, OWCP accepted that appellant's three deployments by the employing establishment to Afghanistan and Iraq in 2007 to 2008, 2011, and 2013 constituted compensable factors of his federal employment, but found that the revocation of his security clearance was not a compensable factor. However, it denied his claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted compensable factors of federal employment. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 13, 2018 appellant requested reconsideration. By decision dated February 21, 2018, OWCP denied his reconsideration claim, finding that he neither raised substantive legal questions nor submitted new and relevant evidence.

On March 9, 2018 appellant filed an appeal with the Board.² By decision dated November 15, 2018, the Board found that the evidence of record was insufficient to establish an emotional condition causally related to the accepted compensable factors of federal employment. The Board explained that the only medical evidence of record had been submitted by a licensed clinical social worker and a psychiatric mental health nurse, who were not physicians under FECA and that appellant had not submitted reports from a psychiatrist or a clinical psychologist, who could provide competent medical evidence. The Board further found that OWCP properly denied his request for reconsideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).

On October 29, 2019 appellant, through then counsel, requested reconsideration. In support of his reconsideration request, appellant submitted a September 27, 2019 medical report by Dr. Richard R. Boone, a clinical psychologist. Dr. Boone provided a comprehensive report in which he related appellant's history of injury, listed appellant's diagnosed conditions, and opined on causal relationship.

By decision dated December 19, 2019, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish an emotional condition causally related to the accepted compensable factors of federal employment. It noted that it received a September 27,

² Docket No. 18-0824 (issued November 15, 2018).

2019 narrative medical report from Dr. Boone; however, it provided no discussion or analysis of the contents of the report.

The Board, having duly considered the matter, finds that this case is not in posture for decision.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.³ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.⁴ Additionally, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome the defect.⁵

In its December 19, 2019 decision, OWCP did not discuss or analyze the contents of the new medical evidence received in support of appellant's reconsideration request, namely, the September 27, 2019 medical report by Dr. Boone. It summarily rejected the report and did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision. OWCP should have explained why Dr. Boone's medical report was insufficient to establish that appellant sustained an emotional condition causally related to the accepted compensable factors of federal employment.⁶

Accordingly, the Board will set aside OWCP's December 19, 2019 decision and remand the case for OWCP to review the evidence in support of appellant's reconsideration request and make findings of fact and provide a statement of reasons for its decision, pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After such further development as OWCP deems necessary, it shall issue a *de novo* decision.

³ 5 U.S.C. § 8124(a).

⁴ 20 C.F.R. § 10.126

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

⁶ *See N.D.*, Docket No. 20-0131 (issued September 11, 2020).

IT IS HEREBY ORDERED THAT the December 19, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: March 18, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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