



## ISSUE

The issue is whether appellant has met his burden of proof to establish a right knee condition causally related to the accepted May 28, 2018 employment incident.

## FACTUAL HISTORY

This case has previously been before the Board.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On May 29, 2018 appellant, then a 40-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on May 28, 2018 his knee gave out when he was carrying lunch trays up stairs while in the performance of duty. He stopped work on May 28, 2018.

Dr. Daniel R. Yanicko, Jr., a Board-certified orthopedic surgeon, treated appellant on July 3, 2018 for a right knee injury that occurred at work on May 28, 2018 while he was carrying food trays and twisted his knee. He diagnosed acute lateral meniscus tear of the right knee and primary osteoarthritis of the right knee. In a work excuse note of even date, Dr. Yanicko diagnosed lateral meniscus tear and degenerative joint disease of the right knee and advised that appellant was disabled from work.

By decision dated August 29, 2018, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed right knee condition and the accepted May 28, 2018 employment incident.

OWCP continued to receive evidence. Dr. Yanicko treated appellant in follow-up on August 29, 2018 for a right knee sprain that occurred at work on May 28, 2018. X-rays of the right knee lateral views revealed grade 1 Osgood-Schlatter's lesion and a nodule. Dr. Yanicko noted medial and lateral joint space narrowing on the erect image. The skyline view revealed moderate tricompartmental spurs, osteophytes, and moderately severe patellofemoral spurs. Dr. Yanicko diagnosed other tear of lateral meniscus, right knee workers' compensation injury on May 28, 2018, and primary osteoarthritis of the right knee.

On September 19, 2018 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated February 15, 2019, the hearing representative affirmed the August 29, 2018 decision.

On May 2, 2019 Dr. Catherine Watkins Campbell, Board-certified in occupational medicine, reviewed appellant's medical records and noted that he was under the care of Dr. Yanicko for degenerative arthritis of both knees. She indicated that Dr. Yanicko documented a twisting injury on May 28, 2018 that significantly aggravated his underlying right knee arthritis. Dr. Watkins Campbell advised that appellant had a history of bilateral knee problems dating back

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<sup>3</sup> Docket No. 20-0009 (issued September 28, 2020).

to previous military service and experienced swelling, locking, and giving out of the right knee. She reviewed x-ray reports from Dr. Yanicko dated May 9 and August 29, 2018 and noted a noticeable increase in the medial joint space narrowing on the August 29, 2018 study compared to the May 9, 2018 studies. Dr. Watkins Campbell concluded that this was objective evidence of a substantial aggravation of preexisting arthritis in the right knee. She diagnosed sprain of the right knee and substantial aggravation of preexisting arthritis of the right knee. Dr. Watkins Campbell opined that the mechanism of injury, climbing stairs while manipulating a moderate-to-heavy weight, was a significant mechanism of injury to cause a sprain, knee joint derangement, and permanent substantial aggravation of preexisting arthritis of the right knee as demonstrated significant x-ray evidence identified within three months of the injury event.

On May 21, 2019 appellant, through counsel, requested reconsideration.

By decision dated August 19, 2019, OWCP denied modification of the February 15, 2019 decision.

On October 2, 2019 appellant, through counsel, appealed to the Board. By decision dated September 28, 2020, the Board affirmed the August 19, 2019 decision, finding that appellant had not met his burden of proof to establish a right knee condition causally related to the accepted May 28, 2018 employment incident.<sup>4</sup>

OWCP continued to receive evidence. In a November 18, 2020 report, Dr. Watkins Campbell provided a more detailed description of the mechanism of injury. She noted that on the date of injury appellant and another officer were carrying a food cart up a flight of stairs and when almost near the top, while stepping with the right leg, he felt an immediate pop in the back of the right knee with acute pain and he was unable to walk. Appellant reported that at the time of the injury he weighed 350 pounds. Dr. Watkins Campbell explained that the anatomic mechanics of the knee joint after the right foot is planted on the next step up and the soft tissue and bone are asked to remain in place as the muscles in the single leg struggle to lift the 350 pounds against forces of gravity. She opined with reasonable medical certainty the femorotibial joint went transiently bone on bone as well wobbled out of flexion and extension functioning, grinding on the already worn cartilage of the arthritic right knee joint. Dr. Watkins Campbell explained that the addition of the food cart being carried at the time of the event could easily have caused additional balance issues and additional impact and grinding in the femorotibial joint. She further opined that the mechanism of injury as further delineated was sufficient to have substantially aggravated the preexisting arthritis of the right knee. Dr. Watkins Campbell indicated that diagnostic evidence of x-rays available further substantiate a substantial aggravation of the preexisting condition. She reviewed x-rays of both knees taken on May 9 and August 29, 2018 performed by Dr. Yanicko and noted noticeable increase in the medial joint space narrowing on the August 29, 2018 study compared to the May 9, 2018 studies. Dr. Watkins Campbell opined that the increase in joint space narrowing strongly suggested a substantial aggravation of preexisting femorotibial arthritis.

On December 16, 2020 appellant, through counsel, requested reconsideration.

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<sup>4</sup> *Id.*

By decision dated March 3, 2021, OWCP denied modification of the September 28, 2020 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</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, that the claim was timely filed within the applicable time limitation period of FECA,<sup>6</sup> and that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>7</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>8</sup>

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.<sup>9</sup> There are two components that must be considered in conjunction with one another. The first component is whether the employment incident actually occurred as alleged.<sup>10</sup> The second component is whether the employment incident caused a personal injury.<sup>11</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>12</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.<sup>13</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition, and appellant's specific employment incident.<sup>14</sup>

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

<sup>6</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>8</sup> *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>9</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

<sup>10</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>11</sup> *E.M.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

<sup>12</sup> *S.S.*, *supra* note 9; *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>13</sup> *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>14</sup> *Id.*

## ANALYSIS

The Board finds that this case is not in posture for decision.

Preliminarily, the Board notes that it is unnecessary for the Board to consider the evidence appellant submitted prior to OWCP's August 19, 2019 decision because the Board considered that evidence in its September 28, 2020 decision and found that it was insufficient to establish the claim. Findings made in prior Board decisions are *res judicata* absent any further review by OWCP under section 8128 of FECA.<sup>15</sup>

In a report dated November 18, 2020, Dr. Watkins Campbell explained that on the date of injury appellant and another officer were carrying a food cart up a flight of stairs and when almost near the top, while stepping with the right leg, he felt an immediate pop in the back of the right knee with acute pain. Appellant reported that at the time of the injury he weighed 350 pounds. Dr. Watkins Campbell explained the anatomic mechanics of the knee joint after the right foot is planted on the next step up and the soft tissue and bone are asked to remain in place as the muscles in the single leg struggle to lift the 350 pounds against forces of gravity. She found with reasonable medical certainty that the femorotibial joint went transiently bone on bone as well wobbled out of flexion and extension functioning, grinding on the already worn cartilage of the arthritic right knee joint. Dr. Watkins Campbell opined that the mechanism of injury was sufficient to have substantially aggravated the preexisting arthritis of the right knee. She indicated that diagnostic evidence of x-rays available further substantiate a substantial aggravation of the preexisting condition. Dr. Watkins Campbell opined that the increase in joint space narrowing strongly suggested a substantial aggravation of preexisting femorotibial arthritis.

The Board finds that the November 18, 2020 reports of Dr. Watkins Campbell is sufficient to require further development of the medical evidence.<sup>16</sup> Dr. Watkins Campbell relied upon a proper history of injury and provided a pathophysiological explanation as to how the accepted employment incident on May 28, 2018 was sufficient to have caused the diagnosed conditions. The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all reasonable doubt. Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rationale, sound, and logical.<sup>17</sup> Dr. Watkins Campbell's opinion is not contested by other medical evidence of record. Accordingly, the Board finds that her medical opinion is sufficiently rationalized to require further development of appellant's claim.

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.<sup>18</sup>

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<sup>15</sup> See *B.R.*, Docket No. 17-0294 (issued May 11, 2018); *Clinton E. Anthony, Jr.*, 49 ECAB 476 (1998).

<sup>16</sup> *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *X.V.*, Docket No. 18-1360 (issued April 12, 2019).

<sup>17</sup> *C.C.*, Docket No. 18-1453 (issued January 28, 2020).

<sup>18</sup> *K.P.*, Docket 18-0056 (issued January 27, 2020); see also *A.P.*, Docket No. 17-0813 (issued January 3, 2018).

On remand, OWCP shall refer appellant, the case record, and a statement of accepted facts, to a specialist in the appropriate field of medicine for an evaluation and a well-rationalized opinion regarding whether he sustained a right knee injury causally related to the accepted employment incident on May 28, 2018. If the physician opines that the right knee injury is not causally related to the accepted employment incident, he or she must explain with rationale how or why their opinion differs from that of Dr. Watkins Campbell. After this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that this case is not in posture for decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 3, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 11, 2022  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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