

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

S.T., Appellant)
)
and) **Docket No. 23-0915**
) **Issued: January 8, 2024**
DEPARTMENT OF THE ARMY, U.S. ARMY)
CORPS OF ENGINEERS, LOS ANGELES)
DISTRICT, Los Angeles, CA, Employer)

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On June 22, 2023 appellant filed a timely appeal from a February 27, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0915.

On July 20, 2022 appellant, then a 65-year-old chief safety officer, filed an occupational disease claim (Form CA-2) alleging that she developed a traumatic brain injury and autonomic neuropathy due to factors of her federal employment.¹ She noted that she first became aware of her conditions on September 16, 2019 and realized their relation to her federal employment on July 10, 2022. Appellant further noted that she retired from federal employment on July 9, 2010.

Appellant submitted medical evidence in support of her claim.

Thereafter, on October 11, 2022, OWCP received an October 3, 2022 report wherein Dr. Charles Hollingsworth, a Board-certified psychiatrist, noted that he had treated appellant since

¹ OWCP assigned the present claim OWCP File No. xxxxxx257. Appellant has a previously-accepted March 29, 2001 traumatic injury claim (Form CA-1) for a concussion and left forehead laceration under OWCP File No. xxxxxx888. The claims have been administratively combined by OWCP, with OWCP File No. xxxxxx888 serving as the master file.

1990 and opined that her autonomic neuropathy was caused by two head injuries that occurred while she worked with the employing establishment. Dr. Hollingsworth related that appellant's first injury occurred on March 29, 2001, when she fell and struck her head against a fire extinguisher and experienced headaches, blurred vision, back pain, and leg spasms. Appellant's second head injury occurred during her deployment to Iraq when her Humvee convoy was struck by an improvised explosive device (IED), and she sustained a concussion. Dr. Hollingsworth explained that the cause of appellant's disabling autonomic neuropathy was the two traumatic brain injuries that she experienced while at work, and that her exposure to burn pit emissions in 2003, 2004, and 2006 while in Iraq was a secondary contributing factor to the condition. He noted that her autonomic neuropathy symptoms included dizziness, low blood pressure, and fainting.

By decision dated February 27, 2023, OWCP found that the evidence of record was sufficient to establish the implicated employment factors. However, it denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted factors of her federal employment. OWCP did not reference Dr. Hollingsworth's October 3, 2022 report.

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

In the case of *William A. Couch*,² the Board held that when adjudicating a claim OWCP is obligated to consider and address all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. As detailed above, OWCP received an October 3, 2022 report from Dr. Hollingsworth opining that appellant's autonomic neuropathy was caused by the two head injuries she experienced during her federal employment. It, however, did not review this evidence in its February 27, 2023 decision. It, thus, failed to follow its procedures by not considering all the evidence of record.³

As Board decisions are final as to the subject matter appealed, it is crucial that OWCP consider and address all evidence received prior to the issuance of its final decision.⁴ The case must therefore be remanded to OWCP to review all the evidence of record. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

² 41 ECAB 548 (1990); *see also K.B.*, Docket No. 20-1320 (issued February 8, 2021); *R.D.*, Docket No. 17-1818 (issued April 3, 2018).

³ OWCP's procedures provide that all evidence submitted should be reviewed and discussed in the decision. Evidence received following development that lacks probative value also should be acknowledged. Whenever possible, the evidence should be referenced by author and date. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Denials*, Chapter 2.1401.5b(2) (November 2012).

⁴ *E.D.*, Docket No. 20-0620 (issued November 18, 2020); *see also L.B.*, Docket No. 21-0140 (issued August 25, 2021); *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *William A. Couch*, *supra* note 2.

IT IS HEREBY ORDERED THAT the February 27, 2023 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: January 8, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board