



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLARK COUNTY AND CORVEL
CORPORATION,
Appellants,
vs.
JACQUELINE JOINER,
Respondent.

No. 90447-COA

*ORDER AFFIRMING IN PART, REVERSING IN PART
AND REMANDING*

Clark County and its third-party administrator Corvel Corporation (collectively appellants) appeal from a district court order granting a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Hon. Anna C. Albertson, Judge.

Respondent Jacqueline Joiner was a juvenile probation officer employed by Clark County and was involved in a use of force incident with a 230-pound juvenile while on duty in August 2022. When Joiner stood up following the incident, she experienced pain in her left foot, right knee, and lower back. She also had a headache. After completing a report related to the incident, Joiner lost consciousness and was seen by emergency medical services. Joiner then sought medical treatment at a Quick Care facility where she filled out a C-4 form to initiate a workers' compensation claim. That form reflected that Joiner was diagnosed with right knee pain, left foot pain, and back pain and indicated that her injuries were job-incurred but no further medical attention was required. She also underwent x-rays, which did not reveal any fractures. The following day, Joiner presented to the emergency

room where she underwent a variety of tests. Ultimately, Joiner's records from the emergency room indicated that her "workup" in the ER was "essentially negative." However, the treating physician informed Joiner that delayed pain or presentation of injuries could result following trauma and she should report back if she experienced continued pain. Joiner had several follow-up doctor's appointments in August and September 2022, which show she was diagnosed with pain in her various injured body parts, post-concussion syndrome, acute stress reaction, sprain of right knee, lumbar strain, and left foot sprain.

Corvel later denied Joiner's workers' compensation claim, determining that her diagnoses made at Quick Care and in the emergency room were non-industrial medical diagnoses such that the burden of proof to establish a compensable industrial injury was not met. Joiner appealed this determination to a hearing officer. The hearing officer reversed the claim denial, and appellants appealed to an appeals officer. Appellants were granted a stay pending the outcome before the appeals officer. Additionally, Corvel denied Joiner's subsequent transfer of care request related to her foot and back pain due to the prior claim denial, which Joiner appealed. The hearing officer affirmed the denial of Joiner's transfer of care requests, reasoning the claim denial was still in place due to the stay of proceedings.

The cases were consolidated and, following a hearing,¹ the appeals officer issued a written decision reversing the hearing officer's reversal of appellants' claim denial and affirming the denial of Joiner's transfer of care requests because Joiner's claim was properly denied. The appeals officer

¹We note that the transcript of the hearing before the appeals officer is not contained in the record. However, the parties do not dispute the appeals officer's factual findings and Joiner's medical records are contained in the record on appeal.

determined Joiner failed to establish by a preponderance of the evidence that she suffered a compensable industrial injury because, although her medical records indicated she reported feeling pain, she had not been diagnosed with any injuries.

Joiner subsequently filed a timely petition for judicial review, which the district court ultimately granted. The court found the appeals officer's decision was not supported by substantial evidence in light of Joiner's medical records showing she sustained a compensable industrial injury. This appeal followed.

On appeal, appellants challenge the district court's order granting Joiner's petition for judicial review, arguing that the appeals officer's decision was supported by substantial evidence and properly applied the law. The appellate court's role in reviewing an administrative agency's decision is identical to that of the district court. *Elizondo v. Hood Mach., Inc.*, 129 Nev. 780, 784, 312 P.3d 479, 482 (2013). The appellate court, therefore, gives no deference to the district court's decision. *Id.* Like the district court, this court reviews the evidence presented to the administrative agency in order to determine whether the agency's decision was arbitrary or capricious and thus an abuse of the agency's discretion. *Langman v. Nev. Adm'rs, Inc.*, 114 Nev. 203, 206-07, 955 P.2d 188, 190 (1998). This court reviews the factual findings of an administrative agency for clear error or an abuse of discretion and will not disturb those findings unless they are unsupported by substantial evidence. *Elizondo*, 129 Nev. at 784, 312 P.3d at 482. Substantial evidence is that which a reasonable person could find adequate to support the agency's decision. *Id.* Although this court normally defers to an agency's conclusions of law that are closely related to the facts, *State v. Tatalovich*, 129 Nev. 588, 590,

309 P.3d 43, 44 (2013), we review purely legal issues de novo, *Sierra Pac. Power Co. v. State, Dept. of Tax'n*, 130 Nev. 940, 944, 338 P.3d 1244, 1247 (2014).

To establish a compensable industrial injury under NRS 616C.150, the employee must establish by a preponderance of the evidence “that the employee’s injury arose out of and in the course of his or her employment” (a work-related injury). *Buma v. Providence Corp. Dev.*, 135 Nev. 448, 450, 453 P.3d 904, 907 (2019) (emphases omitted) (quoting NRS 616C.150(1)). Further, to obtain workers’ compensation benefits for an industrial injury, a claimant must show, by a preponderance of the evidence, that his or her condition meets the statutory requirement of an “injury” caused by “accident,” which arises out of and in the course of employment. *L. Offs. of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 362, 184 P.3d 378, 384 (2008). Under NRS 616A.030, “accident” means “an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury.” Under NRS 616A.265(1), “injury” is defined as “a sudden and tangible happening of a traumatic nature, producing an immediate or prompt result which is established by medical evidence.”

Appellants first contend that judicial review was improperly granted because the appeals officer’s decision was supported by substantial evidence. They argue that Joiner was unable to establish by a preponderance of the evidence that she suffered a compensable injury by accident because she had no quantifiable injuries and only reported pain, which they contend is a symptom of an injury and not a diagnosis. They further contend that any subsequent diagnoses were based solely on Joiner’s reporting and not diagnostic testing.

Here, although the appeals officer found credible written and testimonial evidence that the use of force incident occurred and that Joiner felt

pain in her knee, foot, and lower back, the appeals officer nevertheless determined that there was no evidence Joiner sustained any injuries and that she merely identified a symptom of injuries (pain) rather than diagnosed injuries. We disagree and conclude that the appeals officer committed an error of law in determining that Joiner failed to establish that she suffered an injury under these circumstances. *See* NRS 233B.135(3)(d) (allowing a court to remand a final agency decision in whole or in part if the decision was affected by an error of law).

The record demonstrates that Joiner suffered an accident as defined by NRS 616A.030. That is, while working as a juvenile probation officer, Joiner was involved in an unexpected or unforeseen event which happened suddenly or violently—a use of force incident with an aggressive 230-pound juvenile. Further, that incident produced objective symptoms of injury as the evidence showed that, upon standing after helping subdue the juvenile, Joiner felt pain in her right knee, left ankle, and back. *See* NRS 616A.030; *see also Milko*, 124 Nev. at 364, 184 P.3d at 385 (concluding that “immediate pain [is] an objective symptom of injury” within the meaning of NRS 616A.030).

The record further demonstrates Joiner suffered an injury within the meaning of NRS 616A.265(1). As previously described, Joiner experienced pain in her knee, ankle, and back after having to physically subdue a juvenile, which constitutes a sudden and tangible happening of a traumatic nature producing an immediate or prompt result. Additionally, Joiner’s medical records supported that she sustained an injury. Joiner sought medical attention that day, and a doctor diagnosed Joiner with right knee pain, left foot pain, and back pain and opined the injuries were job-incurred, though the doctor specified no further medical attention was required. *See Buma*, 135 Nev. at 450, 453 P.3d at 907 (2019) (“If the injury occurs at work, during

working hours, and while the employee is reasonably performing his or her duties, then the injury arises in the course of employment under NRS 616C.150(1).”). While we acknowledge Joiner’s x-rays of did not reveal any acute fractures and her emergency room workup was “essentially negative,” her emergency room records indicated that small or hairline fractures may not show on x-rays, and Joiner’s subsequent medical records indicated she was diagnosed with lumbar strain, left foot sprain, and right knee sprain.

Despite the appeals officer’s conclusion that this evidence was insufficient to demonstrate an injury, our supreme court has previously upheld such diagnoses as injuries in the workers’ compensation context. *See, e.g., Bally’s Grand Hotel & Casino v. Reeves*, 113 Nev. 926, 936, 948 P.2d 1200, 1207 (1997) (concluding the appeals officer made an error of law by requiring objective medical evidence to support a claim for a soft tissue injury diagnosed as “cervical sprain/strain” because “[s]uch injuries rarely manifest themselves in objective terms, confirmable by x-ray or other physical means of establishing ‘objective’ harm,” and explaining that soft tissue injuries “can be reliably established by any reasonable and probable medical testimony, independent of ‘objective’ evidence of the injury”); *cf. Bullock v. Pinnacle Risk Mgmt.*, 113 Nev. 1385, 1389-90, 951 P.2d 1036, 1039 (1997) (reversing an appeals officer’s determination that the claimant failed to establish he sustained a compensable industrial injury pursuant to NRS 616A.030 based on lack of evidence that the injury produced objective symptoms where the claimant felt “slight pain” after a workplace incident and was subsequently diagnosed with a muscle “strain”). In reaching this conclusion, however, we do not express any opinion on the scope of the workers’ compensation benefits to which Joiner is entitled.

Moreover, to the extent appellants argue that Joiner had a preexisting knee injury and no physician indicated that it was exacerbated or

aggravated by her Joiner's claimed industrial injury, we are unpersuaded by that argument. The appeals officer similarly found Joiner had a preexisting knee injury and that no physician had indicated that was exacerbated by Joiner's alleged injury, but that finding was contradicted by its later finding that there was credible evidence establishing Joiner was involved in the use of force incident and had resulting knee pain. While appellants are correct that a physician did not indicate Joiner's prior knee injury was exacerbated by the incident, NRS 616C.175(1) instructs that where an employee who has a preexisting condition and subsequently sustains an injury by accident arising out of and in the course of her employment which aggravates, precipitates or accelerates the preexisting condition, the resulting condition "shall" be deemed to be a compensable injury by accident, "unless the insurer can prove by a preponderance of the evidence that the subsequent injury is not a substantial contributing cause of the resulting condition."

In this case, Joiner's medical records reveal she reported injuring her knee during the workplace incident, she consistently reported experiencing knee pain following the incident, and that she was subsequently diagnosed with a knee sprain and given a referral for an MRI. Joiner's medical records further indicate that she reported she did not have knee pain from her prior injury until the instant underlying incident, and appellants do not demonstrate that they met their burden under the statute of proving by a preponderance of the evidence that Joiner's subsequent work-related injury was not a substantial contributing cause of the resulting condition for which she was seeking compensation. As such, they have failed to demonstrate Joiner's industrial knee injury was not compensable due to her preexisting injury.

We next address appellants' argument that Joiner's purported concussion did not arise out of her employment because she acknowledged that she was either dehydrated or hungry while being treated after she suffered a syncopal episode. "[A]n injury arises out of employment if there is a causal connection between the injury and the employee's work, in which the origin of the injury is related to some risk involved within the scope of employment." *Rio All Suite Hotel & Casino v. Phillips*, 126 Nev. 346, 350-51, 240 P.3d 2, 5 (2010) (internal quotation marks omitted).

Here, the record shows Joiner fainted after filling out a report related to the use of force incident. After seeking medical attention, she informed emergency services and the Quick Care physician that she had not eaten much and was most likely hungry and dehydrated. While her later medical records indicate that Joiner reported hitting her head during the incident with the juvenile, the appeals officer determined the evidence regarding her head injury was insufficient to demonstrate that injury was sustained in the course of and arose out of Joiner's employment. Given Joiner's own reporting that she was most likely dehydrated and the conflicting evidence regarding how she sustained and reported that injury, we conclude the appeals officer's decision that her head injury was not work-related was supported by substantial evidence. *See Rio Suite Hotel & Casino v. Gorsky*, 113 Nev. 600, 604, 939 P.2d 1043, 1046 (1997) (explaining that, "if an accident is not fairly traceable to the nature of employment or the workplace environment, then the injury cannot be said to arise out of the claimant's employment"); *Milko*, 124 Nev. at 362, 184 P.3d at 384 (noting this court cannot "reweigh the evidence or revisit an appeals officer's credibility determination"). As such, we affirm the appeals officer's determination in this respect.

Finally, because we affirm the district court's grant of the petition for judicial review concerning its reversal of the appeals officer's decision regarding Joiner's back, knee, and foot injuries, we necessarily affirm the district court's decision to reverse the denial of Joiner's transfer of care requests with respect to these injuries since the appeals officer's decision was based on the claim denial. We, therefore,

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter for proceedings consistent with this order.



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Anna C. Albertson, District Judge
Hon. Janet Trost, Settlement Judge
GGRM Law Firm
Hooks Meng & Clement
Eighth District Court Clerk