

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E605117

DONNA SIMPSON,  
EMPLOYEE

CLAIMANT

STUTTGART REGIONAL MEDICAL CENTER,  
EMPLOYER

RESPONDENT

THE RECIPROCAL GROUP,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED NOVEMBER 10, 2003

Upon review before the FULL COMMISSION in Little Rock,  
Pulaski County, Arkansas.

Claimant represented by HONORABLE GARY DAVIS, Attorney at  
Law, Little Rock, Arkansas.

Respondents represented by HONORABLE GAIL O. MATTHEWS,  
Attorney at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Affirmed and  
adopted.

OPINION AND ORDER

The claimant appeals from a decision of the  
Administrative Law Judge filed June 12, 2003. The  
Administrative Law Judge entered the following findings of  
fact and conclusions of law:

1. The relationship of employee-employer-carrier  
existed among the parties on April 10, 1996  
at which time the claimant sustained a  
compensable back injury at a compensation  
rate of \$337.00/\$253.00. All appropriate  
medical expenses and temporary total  
disability benefits have been paid.

2. The claimant was released on June 10, 1996 to return to work with no anatomical impairment by Dr. Cathey following an MRI scan showing some degenerative changes but no disc herniation, stenosis or nerve root impingement with her complaints of back and radiating leg pain.
3. The claimant sought medical care again in 1999 following a MVA and increased workload. A repeat MRI scan has been interpreted as showing either a mild bulging disc and degenerative changes or no disc involvement and degenerative changes consistent with aging.
4. The claimant has failed to meet her burden of proving a causal connection between the 1996 injury and Dr. Collins' 2000 impairment rating after considering the aging process, the intervening MVA, the gap in time between the injury and the impairment rating and Dr. Cathey's assessment immediately following the compensable injury.

We have carefully conducted a de novo review of the entire record herein, and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct, and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and

conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

\_\_\_\_\_ I must respectfully dissent from the majority opinion affirming and adopting the Administrative Law Judge's decision to deny the claimant any permanent disability benefits. I find that the claimant has established her entitlement to such benefits based on the assessment by her treating physician.

The claimant suffered an admittedly compensable injury to her back as the result of a slip and fall injury on April 10, 1996. Based on a lumbar CT scan, the claimant was initially diagnosed as having a disc herniation at L5-S1. However, subsequent MRIs and CT scans called that finding into question, and it was eventually determined that the claimant did not have a disc herniation.

The claimant received treatment for her spinal problems from several different doctors. She continued working in spite of the pain and limitations imposed by her back condition for a number of years. The claimant ultimately sought treatment from Dr. Kevin Collins, a Little Rock rehabilitation specialist. In a report dated April 9, 2002, Dr. Collins extensively reviewed the claimant's past medical history, her symptoms, and her past CT scans, MRIs, and other radiological reports. At the conclusion of his report, Dr. Collins opined that the claimant has sustained a 10% permanent anatomical impairment to the body as a whole as a result of her compensable injury. Dr. Collins later provided a deposition and explained the basis of his impairment rating.

According to Dr. Collins, the impairment rating was derived from the American Medical Association's Guides to the Evaluation of Permanent Impairment (4<sup>th</sup> ed. 1993). Specifically, Table 72 on page 110 sets out a Diagnosis Related Estimate (DRE) for lumbosacral spine impairments. That table divides spinal injuries into eight categories, with each category providing that the patient would receive a certain percentage of impairment depending on the severity of the condition. Based on his physical examination of the

claimant and his review of her relevant medical records, Dr. Collins determined that she fit into Category Three, representing a permanent anatomical impairment of 10% to the body as a whole.

In his deposition, Dr. Collins explained that he determined the claimant's impairment based on objective factors. Principally, he was relying on her most recent MRI scan which demonstrated facet hypertrophy and a bulging disc at L4-L5. Dr. Collins attributed both the hypertrophy and the bulging disc to arthritic changes that were the result of the claimant's compensable injury. Dr. Collins made that conclusion because earlier MRIs and CT scans, the CT scan in May of 1996 and the lumbar MRI of June 1996, did not reflect the same degenerative changes or show the bulging disc at L4-L5. He opined that the relatively rapid arthritic changes the claimant underwent were the result of her job-related trauma.

For the reasons set out above, I would reverse the opinion of the Administrative Law Judge and award benefits for permanent anatomical impairment in an amount equal to 10% to the body as a whole.

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SHELBY W. TURNER, Commissioner