

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F904712

WILLIAM VICKERS,
EMPLOYEE

CLAIMANT

SOUDAN FARMING COMPANY,
EMPLOYER

RESPONDENT

AG-CORP SIF CLAIMS,
INSURANCE CARRIER

RESPONDENT

OPINION FILED APRIL 15, 2011

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

Claimant represented by the HONORABLE LAURA BETH YORK,
Attorney at Law, Little Rock, Arkansas.

Respondent represented by the HONORABLE GUY ALTON WADE,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The claimant appeals and the respondents cross-appeal an administrative law judge's amended opinion filed October 26, 2010. The administrative law judge found, among other things, that the claimant proved he sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission reverses the administrative law judge's opinion.

The Full Commission finds that the claimant did not prove he sustained a compensable injury.

I. HISTORY

William S. Vickers, age 30, testified that he had been occasionally employed as a seasonal worker for the respondent-employer, Soudan Farming Company, beginning in approximately 1999. The claimant's testimony indicated that he was involved in a nonwork-related motor vehicle accident in about 2005. An MRI of the claimant's lumbar spine was taken on May 16, 2006, with the following impression:

1. Moderate to large posterior and right paracentral L5-S1 disc extrusion with slight inferior migration of extruded disc material. The adjacent thecal sac is deformed and slightly impinged. There is questionable adjacent lateral recess impingement associated.
2. Mild diffuse disc protrusion otherwise within the mid and lower L-spine.

Dr. Terry C. Smith examined the claimant on May 16, 2006: "This 25-year-old, right-handed white male says that 9 months ago he was an unrestrained driver in a motor vehicle accident hit head on. He was air lifted to an emergency room where his shoulder was relocated and he was treated and released....What bothers him more is pain in the mid lower back, going into the top of his buttocks which are numb, and his legs will go to sleep and hurt. Sometimes he will have

a sharp pain in the back....He only had a CT report from Arkansas, and we sent him next door today for an MRI scan, which shows central disk herniation explaining his symptoms....He signed a consent form to proceed with surgical treatment, and will call us with a date."

Dr. Smith referred the claimant to Dr. Harry Friedman, who examined the claimant on May 25, 2006: "I reviewed his lumbar MRI done at Ocean Springs Hospital on May 16, 2006 which showed a midline and to the right herniated nucleus pulposus at L5-S1. Impression: Herniated nucleus pulposus at L5-S1....He wishes to proceed with surgery."

Dr. Friedman performed surgery on June 5, 2006: "Partial hemilaminectomy L5-S1 on the right with removal of ruptured disc, and decompression of ridge using the operating microscope." The post-operative diagnosis was "Herniated nucleus pulposus L5-S1 on the right with removal of ruptured disc, and decompression of ridge using the operating microscope."

The claimant followed up with Dr. Friedman on July 3, 2006: "Mr. Vickers returned to the office for his first post operative visit stating that he was doing well....He has constant right anterior thigh pain which is a different pain

from pre operative which started two to three weeks ago....Impression: Possible recurrent herniated nucleus pulposus. Recommendations: My office will arrange for a lumbar MRI with Gadolinium to be done." Dr. Friedman noted on July 6, 2006, "I reviewed his lumbar MRI with Gadolinium done at Baptist Memorial Hospital - Memphis on July 6, 2006 which showed midline and to the right soft tissue swelling. Recommendations: My office will arrange for him to be seen for a pain management evaluation."

Dr. Steven Richey, a pain manager, examined the claimant on August 8, 2006. Dr. Richey noted that current pain medications used by the claimant were Lortab and Neurontin. Dr. Richey noted that previous pain medications used by the claimant included Lorcet Plus, Percocet, Darvocet, Flexeril, Robaxin, and Skelaxin.

The claimant testified that he worked "consecutive years" for the respondent-employer beginning in about 2007. The parties stipulated that an employment relationship existed on or about May 19, 2009; the claimant contended that he sustained an accidental injury on that date. The claimant testified on direct examination:

Q. You were in the back of a truck?

A. The back of - standing on the back of a flatbed, utility bed truck....

Q. Now you're having to lift this - is it an oxygen tank?

A. Yes, ma'am, it's an oxygen tank....

Q. Did you injury (sic) your back while you were lifting the tank?

A. Yes, ma'am....When I was picking it up the second time after we - it slid it back in the hole the first time, and we got it up, when we - when I let go of the bottle after it was just waiting - resting on the side of - you know, I knew something was wrong because it felt - it felt like my back muscles were torn apart, so I figured I'd pulled a muscle, or you know, at least something was wrong because I was hurting from the top of my shoulder down to my butt.

Q. Okay. So you picked this oxygen tank up?

A. Yes, ma'am....

Q. And you moved it to the side of the truck?

A. Yes, ma'am....

Don Worley testified that he remembered working with the claimant on May 19, 2009 and also remembered the claimant attempting to lift an oxygen tank. Don Worley could not remember whether or not the claimant informed him of an injury that day. Mr. Worley testified that he learned

later on that the claimant contended that he sustained a back injury as a result of lifting the oxygen tank.

Mike Jarrett, an assistant manager for the respondent-employer, testified for the respondents:

Q. Now, you understand and heard the testimony from Mr. Vickers that he alleges an event occurred on May 19, 2009, do you remember that?

A. Yes.

Q. Now, are you aware or do you recall an event lifting an oxygen tank on that particular day?

A. Yes.

Q. If you would, describe for the court what you recall?

A. Well, Will was on top of the truck, and I was at the side of it....He was lifting from the top, and I reached up under the bottom and was lifting....

Q. Did you observe anything with respect to Mr. Vickers after this lifting of the oxygen tank that led you to believe that he was injured or hurt or having any kind of problems?

A. No, sir....

Q. Was there anything that led you to believe that Mr. Vickers was injured on May 5 - or excuse me - May 19, 2009 after lifting this oxygen tank?

A. No.

The record indicates that the claimant signed a Form AR-N, Employee's Notice Of Injury, on May 21, 2009. The

claimant wrote on the Form AR-N that he had sustained an accident at 11:15 a.m. on May 19, 2009, injuring his upper and lower back: "I was lifting an oxygen bottle up out of hole on service truck to replace it. The bottle is in a hole about 2.5 feet deep. You have to pick the 90-95 lb. bottle straight up to get out of hole....Mike Jarrett was watching me and I told him and Don Worley that my back was really hurting afterwards...."

The claimant's testimony indicated that Sue Hughes with the respondent-employer sent him to Dr. L. J. Patrick Bell, II. Sue Hughes, the respondent-employer's bookkeeper, agreed at hearing that she made an appointment for the claimant to see Dr. Bell. The record indicates that Dr. Bell saw the claimant on May 21, 2009, at which time it was noted, "back injury @ work; has previously had back surgery." The handwritten "Details of physical exam" appeared to show "Back pain, Tender L4," radiation, and "L Spine - narrowing L4 foramen." Dr. Bell's handwritten notes also appeared to show that he prescribed medication for the claimant.

The claimant testified that he was off work following the May 19, 2009 incident, and that he had received one

temporary total disability payment. The claimant followed up with Dr. Bell on May 26, 2009. Dr. Bell noted "numbness down R leg 'tightness.'" On May 28, 2009, Dr. Bell signed a Certificate To Return To Work: "off work until after MRI."

Dr. Bell signed a Form AR-3, Physician's Report, on June 1, 2009. The Physician's Report described an accident occurring on May 21, 2009, "Back injury, lifting an oxygen bottle from truck." The Form AR-3 indicated that the Diagnosis/Treatment Rendered was "LMS/LR," that the claimant was treated with an injection, and that additional diagnostic studies were ordered. An MRI of the claimant's lumbar spine was taken on June 1, 2009, with the following opinion:

1. Postoperative changes are present at the L5-S1 level. A laminectomy defect is present at this level on the right.
2. A broad-based posterior disk bulge is present at the L5-S1 which is greater toward the right. The disk appears to extend near the L5 nerve root on the right laterally. There is foraminal narrowing on the right when compared with the left.
3. Osteophytes are present at the L5-S1 level with mild facet hypertrophy at this level on the right.
4. Mild diffuse disk bulging is present at the L4-5 level.

The claimant agreed on cross-examination that the respondents controverted additional medical treatment

following the June 1, 2009 MRI. Tammy J. Hester, an adjuster for the respondent-carrier, testified that the respondents paid for two visits with Dr. Bell and the MRI. Tammy Hester testified, "we determined that, you know, we would not cover anything further because the symptoms, the complaints, and the MRI indicated at the same level that everything was identical to post-surgery '06."

A pre-hearing order was filed on April 27, 2010. The claimant contended, among other things, that he sustained a compensable injury on May 19, 2009 when he was "lifting an oxygen tank out of the back of the truck." The claimant contended that he was entitled to medical benefits, temporary total disability benefits, and fees for legal services.

The respondents contended that the claimant did not sustain a compensable injury. The respondents contended that the claimant's complaints were "the result of a pre-existing condition or actions/events that did not occur at work with respondents."

The parties agreed to litigate the following issues:

1. Compensability of the claimant's alleged May 19, 2009 injury.

2. If found compensable, the claimant's entitlement to medical benefits and temporary total disability benefits.
3. Controversion and attorney's fees.

A hearing was held on July 14, 2010. The claimant testified that he was no longer working for the respondent-employer, but that he was working for a company with his brother. The claimant's testimony indicated that he began working with his brother in March 2010.

An administrative law judge filed an amended opinion on October 26, 2010. The administrative law judge found that the claimant proved he sustained a compensable injury. The administrative law judge awarded medical treatment and temporary total disability benefits from May 19, 2009 until July 9, 2009. The claimant appeals to the Full Commission and the respondents cross-appeal.

II. ADJUDICATION

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4) (Repl. 2002) provides:

- (A) "Compensable injury" means:
 - (i) An accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2002). "Objective findings" are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Repl. 2002). The claimant must prove by a preponderance of the evidence that he sustained a compensable injury. Ark. Code Ann. §11-9-102(E)(i)(Repl. 2002). Preponderance of the evidence means the evidence having greater weight or convincing force. *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

An administrative law judge found in the present matter, "4. The claimant has proven by a preponderance of the evidence that he sustained a compensable low back injury on May 19, 2009." The Full Commission reverses this finding. We find that the claimant did not prove he established a compensable injury by medical evidence supported by objective findings. The claimant contends that Dr. Bell "noted lumbar spasms" following the alleged incident on May 19, 2009. We recognize that muscle spasms can constitute objective medical findings to support compensability. *Continental Express, Inc. v. Freeman*, 66

Ark. App. 102, 989 S.W.2d 538 (1999). Nevertheless, there is no probative evidence in the instant matter demonstrating that Dr. Bell or any other treating medical professional noted or otherwise personally observed muscle spasms following the alleged May 19, 2009 accidental injury. We also do not find that Dr. Bell's notation of numbness and "tightness" in the claimant's right leg on May 26, 2009 can be equated with muscle spasm. See *Carman v. Haworth, Inc.*, 74 Ark. App. 55, 45 S.W.3d 408 (2001).

The claimant also argues that Dr. Bell prescribed Flexeril and Soma, implicitly contending that these prescriptions of medication constituted objective medical findings establishing a compensable injury. The Full Commission recognizes the Arkansas Supreme Court's holding that a physician's prescription of the medication Valium "as needed for muscle spasm" was an objective medical finding establishing a compensable injury. See *Estridge v. Waste Management*, 343 Ark. 276, 33 S.W.3d 167 (2000). The Supreme Court has also held that a physician's prescription of medication, to include a prescription for Flexeril, constituted an objective medical finding establishing a compensable injury. See *Fred's Inc. v. Jefferson*, 361 Ark.

258, 206 S.W.3d 238 (2005). The Court in *Fred's Inc.* noted that the claimant had been diagnosed with a contusion in her spine as well as a back bruise. *Id.*, 361 Ark. 260, 264, 206 S.W.3d at 242, 243. Citing *Estridge, supra*, the Arkansas Court of Appeals subsequently held, "the emergency room personnel's prescribing of Flexeril for muscle spasms is sufficient to establish objective findings of injury." See *Denning v. Wal-Mart Associates*, 2009 Ark. App. 842.

However, the Court of Appeals affirmed the Commission's decision that the claimant did not sustain a compensable injury in *Rodriguez v. M. McDaniel Co., Inc.*, 98 Ark. App. 138, 252 S.W.3d 146 (2007). The Court held in *Rodriguez* that a prescription for Robaxin was not sufficient to establish a compensable injury, because the medical evidence did not demonstrate that the claimant was experiencing muscle spasms, and Robaxin could be prescribed for "prophylactic purposes." *Id.* at 144, 252 S.W.3d at 151.

In the present matter, the claimant contends that objective medical findings establishing an injury were demonstrated on May 21, 2009, when Dr. Bell described back pain and tenderness in the claimant's lumbar spine. The physician's handwritten notes on May 21, 2009 are difficult

to interpret but possibly indicate prescriptions for Flexeril and Soma. Nevertheless, this medical exhibit does not demonstrate that the claimant was prescribed medication "as needed for muscle spasm" as was the case in *Estridge, supra*. Nor was the instant claimant diagnosed with a contusion or bruising, as was the claimant in *Fred's Inc., supra*. The record in the present matter does not demonstrate that the claimant was diagnosed with bruising, swelling, contusion, spasm, or any objective medical finding following the alleged May 19, 2009 incident. Nor did Dr. Bell prescribe medication "as needed for spasm." We specifically note Dr. Bell's June 1, 2009 Physician's Report, which did not indicate that Dr. Bell had observed muscle spasms or prescribed medication for muscle spasms. The Full Commission also reiterates that the claimant had already been prescribed medications for his low back no later than August 2006. These medications, as noted by Dr. Richey, included Lortab, Neurontin, Lorcet Plus, Percocet, Darvocet, Flexeril, Robaxin, and Skelaxin.

Finally, the Full Commission finds that the June 1, 2009 MRI was not medical evidence establishing a compensable injury to the claimant's low back. The preponderance of

evidence does not demonstrate that any of the conditions shown on the June 1, 2009 MRI, including postoperative changes, laminectomy defect, bulging, or foraminal narrowing, were caused by the alleged May 19, 2009 accidental injury. Accordingly, the Full Commission finds that the claimant has failed to establish by a preponderance of the evidence a compensable injury supported by objective findings. Ark. Code Ann. §11-9-102(4) (D) (Repl. 2002). Nor did the claimant prove by a preponderance of the evidence that he sustained a compensable "aggravation of a pre-existing condition" on May 19, 2009. An aggravation is a new injury resulting from an independent incident, and being a new injury with an independent cause, it must meet the definition of a compensable injury in order to establish compensability for the aggravation. *Hickman v. Kellogg, Brown & Root*, 372 Ark. 501, 277 S.W.3d 591 (2008). In the present matter, the June 1, 2009 MRI was not objective medical evidence establishing a compensable injury allegedly occurring on May 19, 2009.

Based on our *de novo* review of the entire record, the Full Commission finds that the claimant did not prove he sustained a compensable injury on May 19, 2009. The

claimant did not establish a compensable injury to his low back by medical evidence supported by objective findings. We therefore reverse the administrative law judge's finding that the claimant proved he sustained a compensable injury, and this claim is denied and dismissed.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion. Ark. Code Ann. §11-9-102(16)(a)(i) states that "Objective findings" are those findings which cannot come under the voluntary control of the patient." That is it. Ark. Code Ann. §11-9-102(16)(a)(i) has nothing to do with causation. The majority states that "the June 1, 2009 MRI was not objective medical evidence establishing a compensable injury allegedly occurring on May 19, 2009." This statement is a clear misinterpretation of Ark. Code

Ann. §11-9-102(16) (a) (i). The majority has completely failed to engage in any causation analysis, and its decision must be reversed.

The workers' compensation statutes provide that "[a] compensable injury must be established by medical evidence supported by objective findings...." Ark. Code Ann. 11-9-102(4) (D) (Supp. 2007). "Objective findings" are defined as "those findings which cannot come under the voluntary control of the patient." Ark. Code Ann. §11-9-102(16) (A) (i) (Supp. 2007). A claimant must prove a causal connection between his employment and the injury. Crudup v. Regal Ware, Inc., 341 Ark. 804, 20 S.W.3d 900 (2000). While objective medical evidence is necessary to establish the existence and extent of an injury, it is not essential to establish the causal relationship between the injury and the work-related accident. Wal-Mart Stores, Inc. v. VanWagner, 337 Ark. 443, 990 S.W.2d 522, 524 (1999); Horticare Landscape Management v. McDonald, 80 Ark. App. 45, 89 S.W.3d 375 (2002). The two concepts - causation and objective findings - must be considered separately. See VanWagner, *Supra*.

Here, the claimant clearly has objective findings as shown on the June 1, 2009 MRI:

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1. Postoperative changes are present at the L5-S1 level. A laminectomy defect is present at this level on the right.
2. A broad based posterior disk bulge is present at the L5-S1 which is greater toward the right. The disk appears to extend near the L5 nerve root on the right laterally. There is foraminal narrowing on the right when compared with the left.
3. Osteophytes are present at the L5-S1 level with mild facet joint hypertrophy at this level on the right.
4. Mild diffuse disk bulging is present at the L4-5 level.

Clearly, all of the June 1, 2009 MRI findings "cannot come under the voluntary control of the patient" and Ark. Code Ann. §11-9-102 (16) (A) (i) has been satisfied. The "existence and extent" of the injury has been shown pursuant to VanWagner, Supra.

As objective findings have been shown, the question becomes one of causation. This claim is made more difficult because the claimant has a pre-existing condition in the same area as the one involved in the instant claim (the back). But the causation question cannot be answered by a simple "before the incident MRI and after the incident

MRI" comparison, which is the analysis the majority has engaged in. All the majority's analysis proves is that the claimant had objective findings before the incident and also had objective findings after the incident. The question of causation has to be considered separately from objective findings. If this were not a requirement, all claimants with pre-existing objective findings would be barred from receiving workers compensation benefits, a result clearly not intended by the legislature.

The employer takes the employee as it finds him, and employment circumstances that aggravate pre-existing conditions are compensable. Heritage Baptist Temple v. Robison, 82 Ark. App. 460, 120 S.W. 3d 150 (2003); Pearline Williams v. L&W Janitorial, Inc. 85 Ark. App. 1, 145 S.W. 3d 383 (2004). An aggravation of a pre-existing non-compensable condition by a compensable injury is, itself, compensable. Oliver v. Guardsmark, 68 Ark. App. 24, 3 S.W.3d 336 (1999). A pre-existing disease or infirmity does not disqualify a claim if the employment aggravated, accelerated, or combined with the disease or infirmity to produce the disability for which workers' compensation is sought. Hickman v. Kellogg, Brown & Root, 372 Ark. 501, 277

S.W.3d 591 (2008). An aggravation is a new injury resulting from an independent incident. Crudup v. Regal Ware, Inc., 341 Ark. 804, 20 S.W. 3d 900 (2000). An aggravation, being a new injury with an independent cause, must meet the definition of a compensable injury in order to establish compensability for the aggravation. Farmland Ins. Co. v. Dubois, 54 Ark. App. 141, 923 S.W. 2d 883 (1996).

Ark. Code Ann. §11-9-102(4) (A) (Repl. 2002) defines "compensable injury":

(i) An accidental injury causing internal or external physical harm to the body...arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

Here, the claimant has proved all of the elements of a compensable aggravation injury. The claimant credibly testified that, on May 19, 2009, he was working with Don Worley and Mike Jarrett, and they were welding a channel iron in a pivot bridge. They ran out of oxygen, so they went to the shop to get an oxygen tank out of a flatbed utility truck. The claimant testified that, although all

three were at the truck, he was the only one in the truck. The oxygen tank is approximately 5½ feet tall and weighed about 90 to 100 pounds. It sits down in a hole on the truck. The hole is approximately 1½ to 2 feet deep and, in order to get the tank out, you have to grab the tank by the cap and lift, then slide it to the back of the truck. The claimant testified that he was holding a 2 to 3-inch cap on the top of the tank and had to pull straight up to about his chin level. Claimant had the top of the tank, and Mr. Jarrett had the bottom of it, and they were picking up the tank when it slipped back into the hole. The claimant testified that he was picking it up, for a second time, to get the tank out of the hole in the truck, when he felt pain in his low back. The claimant felt a sharp pain in the lower right side of his back.

After the sharp pain, claimant testified that he just stood around and leaned over the side of the truck, holding the side of the truck. He testified that he had a few "choice words" because he was hurting. The claimant told Mike Jarrett that he thought it was a pulled muscle, but did not specifically ask to go to the doctor. It was approximately 10:00 or 11:00 a.m., and he tried to go back

to work, but he could not work because of the pain and the fact that he could hardly bend over. At approximately 2:00 or 3:00 p.m., he advised Don Worley that he was hurting too bad, and went home early. The claimant credibly testified that, after he lifted the tank for the second time, he began to feel a sharp stabbing pain in his low back. He leaned on the truck for approximately five minutes and had some "choice words". Both Mike Jarrett and Don Worley corroborated the claimant's testimony that he had lifted an empty oxygen tank from the back of a truck on May 19, 2009. However, neither witness could recall whether or not the claimant complained of pain in his back or observations of any signs of injury as described by the claimant. Fortunately, Ms. Hughes did recall that she talked with Mike Jarrett, who verified that the claimant was helping him lift the oxygen bottle off the trailer and that Mike Jarrett and Don Worley were there when it happened.

The claimant testified that he reported the injury to his supervisor, Bubba Byrd, the next morning, and was told to go see Sue Hughes to fill out the paperwork. Ms. Hughes sent him to Dr. Bell. The evidence reveals that, on May 20, 2009, the claimant reported the injury to Cathy in

the office. Cathy left a note for Sue Hughes that the claimant reported that he had hurt his back on the 19th, that Bubba and Mike knew he hurt his back, and that the claimant would come in on the 21st to fill out the paperwork if he was still hurting.

Despite Mike Jarrett's testimony that he did not know that the claimant had hurt his back, the evidence reveals that he did, in fact, know about the claimant's injury. Additionally, Bubba Byrd, the supervisor, was not called as a witness. The Commission has recognized that an "unexplained failure to call a witness with special knowledge of a transaction raises a presumption that the testimony would be unfavorable" West v. Tyson Foods, Inc., 1997 AWCC 214 (E408320 filed May 8, 1997); Combs v. Conway Human Development Center and Public Employee Claims Div., Full Workers' Compensation Commission Opinion filed May 3, 1995 (E315849), citing Ark. Highway Commission v. Phillips, 252 Ark. 206, 209, 478 S.W.2d 27 (1972). In this case, the respondents failed to call Bubba Byrd, the supervisor, without explanation. The evidence further demonstrates that the claimant did meet with Sue on the 21st to fill out the paperwork and was referred to Dr. Bell.

The claimant went to see Dr. Bell, who ordered an MRI and took the claimant off work on May 21, 2009. The claimant credibly testified that, in 2009, he felt a sudden change in his back after lifting the oxygen tank on May 19, 2009. The claimant testified that the pain was like a butter knife was being shot into his hip bone and in his lower right back. The claimant testified his right leg was going to sleep and it was numb and tingling. Claimant credibly testified that he had experienced that pain before the 2006 surgery, but not after the 2006 surgery. Claimant testified that the 2009 injury was the first time since the 2006 surgery that he experienced that kind of pain.

The Arkansas Supreme Court has acknowledged that medical proof of causation is not required in every case:

The plethora of possible causes for work-related injuries includes many that can be established by common-sense observation and deduction. To require medical proof of causation in every case appears out of line with the general policy of economy and efficiency contained within the workers' compensation law. To be sure, there will be circumstances where medical evidence will be necessary to establish that a particular injury resulted from a work-related incident but not in every case.

Wal-Mart Stores, Inc. v. VanWagner, 337 Ark. 443, 990 S.W. 2d 522 (1999). Here, rather ironically, since the majority has chosen to disregard it, in addition to the claimant's credible testimony, there is also objective medical evidence showing causation. First, Dr. Bell noted lumbar spasms. Second, Dr. Bell prescribed medication of Flexeril and Soma to the claimant, and noted that physical therapy should be considered. A reasonable inference from the chronology of events is that the medication and physical therapy were prescribed to aid and treat the injury. Kimbrell v. Ark. Dep't. of Health, 66 Ark. App. 245, 989 S.W.2d 570 (1999); Fred's, Inc, v. Jefferson, 361 Ark. 258, 206 S.W.3d 238 (2005); Estridge v. Waste Management, 343 Ark. 276, 33 S.W.3d 167 (2000), Additionally, medical notes of muscle spasms and prescriptions of muscle relaxers are held to be objective medical findings. See Estridge v. Waste Management, 343 Ark. 276, 33 S.W.3d 167 (2000), and Fred's, Inc. v. Jefferson, 361 Ark. 258, 206 S.W.3d 238 (2005).

The medical records reflect that the claimant had not sought treatment for his back since 2006. The claimant testified that, following the nerve blocks in 2006, he had not had any back problems and had been able to return to

full-duty work, without restrictions, until the incident on May 19, 2009. The claimant has met the objective findings requirement of §11-9-102(16)(a)(i) with the MRI dated June 1, 2009. Causation is proved by the claimant's credible testimony and the objective findings of spasm and prescriptions related to spasm from the May 21, 2009 visit with Dr. Bell. As such, I find that the claimant has met all of the elements of a compensable specific incident aggravation injury and would award all benefits related to this injury, including additional reasonably necessary medical treatment and temporary total disability benefits.

For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner