Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: July 29, 2016

CLAIM NO. 201402001

RALEIGH P. BLACKBURN PETITIONER

VS. **APPEAL FROM HON. OTTO DANIEL WOLFF, IV, ADMINISTRATIVE LAW JUDGE**

KY FUEL CORPORATION
and HON. OTTO DANIEL WOLFF, IV,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING
* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

STIVERS, Member. Raleigh P. Blackburn ("Blackburn") appeals from the March 7, 2016, Opinion and Order of Hon. Otto Daniel Wolff, IV, Administrative Law Judge ("ALJ") dismissing his claim against KY Fuel Corporation ("KY Fuel") for cumulative trauma injuries to his lumbar spine and knees. Blackburn also appeals from the April 27, 2016, Order denying his petition for reconsideration.

Blackburn alleged cumulative trauma injuries to his back, left leg, and left foot on May 5, 2014.[1] He testified at his February 4, 2015, deposition and at the January 6, 2016, hearing. At the time of his deposition, Blackburn was 53 years old and had attended Mayo Technical College for two years taking courses to become an automotive and diesel mechanic. At some point during his employment, Blackburn possessed foreman's papers, certification as a blaster, and certification as a mine emergency technician. Blackburn worked approximately thirty-one years in surface mining. He initially worked as a mechanic repairing and maintaining heavy equipment for Martiki Coal. In 1985, he went to work for Delta Energy driving a rock truck and working on the powder crew. In 1986, he moved to Appalachian Fuels where he worked through 2009. During his time at Appalachian Fuels, he operated rock trucks, loaders, and drills. He also performed mechanic work. The last eight to ten years, Blackburn worked as a blasting foreman supervising approximately fourteen men. In 2009, Blackburn moved to KY Fuel working as a blasting foreman. Blackburn characterized his duties as a working foreman. His job entailed a lot of bending,

[1] During the proceedings, the ALJ sustained Blackburn's motion to include a claim for injuries to his knees.

stooping, digging, and lifting. He identified a range of items he regularly lifted weighing between 10 and 150 pounds. Blackburn testified he hurt his left foot by "lifting and stuff."

In 1999, he underwent lumbar spine surgery performed by Dr. Phillip Tibbs at the University of Kentucky Medical Center. He provided the following as to what precipitated the surgery:

> Q: Okay. Do you remember more or less when the first one was?
>
> A: I ain't [sic] good with dates. It was like in '99 or 2000. I remember it was in December, but I'm thinking it was probably around '99, 1999.
>
> Q: Okay. And how did you come to have that surgery? I mean had you hurt yourself before that or you were just having back pain or what?
>
> A: Well, I throwed [sic] – I was at the house and I throwed [sic] a shovel full of dirt in a wheelbarrow and I started hurting. And it just went from there. And then I mean that was the first time I can remember hurting any at all. And then after that I tried to work with it, and work with it, and work with it, and work with it, and it got to the point that I couldn't handle the pain so I went to a doctor.

Blackburn testified that after undergoing surgery he returned to work without any restrictions or problems. In 2011, he underwent a second surgery. He described the nature of the surgery as follows:

> Q: So were both the surgeries, were these both in your low back?
>
> A: Well, I don't know what you're calling low back. I'm cut from right here to right there. The last surgery, I think he cut me right up in here.
>
> Q: Okay. So that looks like an inch or two above your belt line up to about the middle of your back. Is that right?
>
> A: Yeah, the first surgery was down here in my lower back.
>
> Q: Okay.
>
> A: And the last surgery was connecting the scar on up into the middle of my back.

At the hearing, Blackburn reiterated his testimony of working thirty-one years in the coal industry above ground which entailed working twelve hours a day six days a week. Most of Blackburn's work in the coal industry was as a blasting foreman. He also worked on drills and helped the mechanics. He indicated he is unable to lift, walk, carry, or bend over. His back pain extends down his left leg into his foot. Blackburn's problems are greater in his left leg than in his right. He is able to stand for twenty to thirty minutes and can sit for approximately an hour. Shortly after the second surgery, Blackburn developed back problems resulting in his doctor, Dr. Wayne Bishop, restricting him from lifting over twenty pounds and performing physical work. Even though Blackburn advised

his employer of these restrictions he continued working as a blasting foreman which entailed working beyond the restrictions imposed by Dr. Bishop. Blackburn denied that a doctor ever advised him his physical problems were work-related.

Blackburn submitted the report Adam C. Akers, a chiropractor, and the report and deposition of Dr. Robert Hoskins. KY Fuel introduced the Independent Medical Evaluation reports of Dr. Timothy Kriss and Dr. Philip Corbett. KY Fuel also submitted the medical records of Dr. Bishop and Dr. Phillip Tibbs and the University of Kentucky Medical Center.

The ALJ concluded Blackburn did not sustain a work-related cumulative trauma lumbar injury, reasoning as follows:

> Plaintiff's back problems are neurologic and/or orthopedic medical problems, and the only involved medical experts schooled and practiced in neurologic and orthopedic problems are Dr. Kriss, Neurosurgeon/Spine Specialist, and Dr. Corbett, Orthopedic Surgeon; certainly their expertise carries more weight than the input of Dr. Akers B.S., D.C. and/or Dr. Hoskins, Family Practice. That is not to say Dr. Akers is not a well-qualified Chiropractor nor to say Dr. Hoskins is not be [sic] a well-qualified Family Practitioner, but Drs. Kriss' and Corbet's [sic] schooling and practice

experience merits their opinions being given greater weight.

Utilizing the facts documented in Dr. Bishop's office-visit records for Plaintiff Drs. Kriss and Corbett provide well-qualified, expert medical opinions.

The first filed office-visit record of Plaintiff seeing Dr. Bishop is dated February 19, 2013. At that time Dr. Bishop's assessment was "Lumbar radiculopathy - continue current medication regime."

Dr. Bishop's next office-visit record pertaining to Plaintiff is dated July 1, 2013. Plaintiff was seen for "Follow up on lumbar radiculopathy." Dr. Bishop's record reads in pertinent part, "The patient comes in today for follow up on lumbar radiculopathy. He is having some pain radiating down from the back down the left leg with chronic numbness and chronic trouble with motor neuron firing in the left lower extremity. This is from his laminectomy surgery done in 1999. He also has history of the spinal tumor removed in 2011 and he still has degenerative disc disease especially the L3 – 4 and L5 – S1. The patient's job has changed recently and is having to lift a lot more weight; at least 40-50 pounds at least at a time and doing blasting work in the strip-mining job. He is having to do a lot of repetitive lifting of 40-50 pounds and states that the pain intensity in the lower back radiating down the legs is about 6 – 7/10 in severity."

As previously noted Plaintiff's last day of work was May 5, 2014, and on May 8, 2014 Plaintiff had an office visit with Dr. Bishop. Plaintiff presented with complaints of low back pain with intensity about 5/10 in severity. Dr. Bishop's assessment was

"Low back pain-continue current measures." The record does not contain reference to the fact Plaintiff was laid off three days before the office visit.

Plaintiff's lumbar laminectomy was performed in 1999, on July 1, 2013, a time period of 14 years, and only 10 months prior to Plaintiff's injury date of May 5, 2014, Dr. Bishop indicated Plaintiff's, lumbar radiculopathy, pain radiating from his back down into the left leg, chronic leg numbness, and motor neuron firing in the left leg was "from his laminectomy surgery done in 1999." Plaintiff indicated to Dr. Kriss he had experienced these symptoms since before his 1999 laminectomy. Obviously Plaintiff's lumbar spine problems existed well before the endpoint of his work as a miner.

Dr. Kriss indicated Plaintiff required multilevel, bilateral lumbar laminectomy surgery at a relative young age, and this surgery at that young age was quite unusual. Dr. Kriss wrote, "The unilateral discectomy is not terribly uncommon in younger patients, but a multilevel, bilateral compression (confirmed on the post-operative imaging) is quite unusual in this age group." Dr. Kriss went on to note, "Mr. Blackburn has the history of a spinal canal TUMOR in the center of his lumbar spine, big enough to fill almost the entire canal at L2/L3 (leaving perhaps only 5% or less canal space for all the nerves of the cauda equina). Any spinal tumor consuming 95% of the allotted space for the entire cauda equine can be considered a very, very big deal. Such pathology is most definitely not found in 99.9% of coal miners."

Dr. Kriss opined Plaintiff's tumor and the surgery to remove the lumbar

tumor, was an obvious potent cause of Plaintiff's low back and bilateral leg pain, he wrote, "It is also exceedingly common to have persistent back and leg pain even after total surgical excision - as in Mr. Blackburn's case -." He continued, "The mere fact of post-operative scarring from two multilevel surgeries - 1999 laminectomy at L4/L5 and L5/S1, 2011 laminectomy and tumor excision at L1/L2, L2/L3, L3/L4 - would also contribute to Mr. Blackburn's chronic back and bilateral leg pain."

Dr. Kriss went on to note, "Dr. Bishop provides no evidence that the lifting at work has caused new permanent harmful change."

Defendant's orthopedic surgeon, Dr. Corbett wrote, "this is a 53 – year – old, obese coal miner with a history of lumbar surgery for discectomy on a nontraumatic, non-work-related basis, as well as a more recent lumbar laminectomy and extensive tumor resection from the lumbar spine and persistent evidence of a neurologic deficit which, from the records, appears to relate to the surgery and condition of 1999. This includes the atrophy currently evident in Mr. Blackburn's left lower extremity in the ongoing descriptions in his primary care notes from Dr. Bishop of "radiculopathy."" Dr. Corbett concluded his IME report writing, "I definitely second the reasoning provided by Dr. Kriss in his exposé."

It is also noteworthy that in a December 2011 Neurosurgery Clinic intake form plaintiff, before knowing the etology [sic] of his back problem, reported his lumbar problem was not due to a work injury. In a December 2, 2011 neurosurgical consultation by Dr. Tibb's [sic], done at the request of Dr.

> Bishop, Dr. Tibb's [sic] wrote, "He (Plaintiff) reports he had relief and then in October 2010, he developed nontraumatic low back pain radiating to the left leg... He continues to work at the surface mine."
>
> The persuasive proof indicates Plaintiff's lumbar spine problems are not due to cumulative traumas experienced while working as a surface-coal miner, but his lumbar spine problems exist because of his 1999 laminectomy surgery coupled with his 2011 laminectomy and tumor excision, both surgeries due to non-work related events.
>
> Plaintiff has failed to present ample persuasive proof his lumbar spine problems are due to cumulative traumas experienced while working in the surface-coal mining industry; consequently plaintiff's claim for a work-related cumulative trauma lumbar spine injury will be dismissed.

In concluding Blackburn did not sustain work-related cumulative trauma injuries to his knees, the ALJ provided the following:

> Plaintiff alleges work-related cumulative trauma injuries to his left leg, foot and knees. Plaintiff relies upon Dr. Hoskins to prove the existence of cumulative trauma injuries to his left leg, foot and knees. Dr. Hoskins' Form 107 indicates the extent of his findings about Plaintiff's knees was, "The knees have an arthritic appearance." Dr. Hoskins did not have, review or consider any x-rays or other diagnostic test result of Plaintiff's knees.

Despite the total lack of objective medical findings, Dr. Hoskins' diagnoses was "Bilateral patellofemoral arthritis". [sic]

Dr. Hoskins assessed Plaintiff a 2% WPI for each of Plaintiff's knees for a total impairment of 4%. Dr. Hoskins relied on Chapter 17, Table No. 17 – 31 of the AMA Guides 5th Edition to determine Plaintiff had a 2% WPI to each of his knees. Table 17 – 31 is title "Arthritis Impairments Based on Roentgenographically Determined Cartilage Intervals, "and specifically requires x-rays measuring and showing joint space narrowing before a rating can be given pursuant to that Table.

Dr. Hoskins acknowledged in his deposition he did not have any x-rays of Plaintiff's knees to review.

An assessment by a physician of an injured workers' physical impairment that disregards with the express terms of the AMA Guides cannot constitute substantial evidence to support an award of workers' compensation benefits. *Jones v. Brasch-Berry General Contractors*, 189 S.W.3d 149 (Ky. 2006).

Since Dr. Hoskins WPI rating for Plaintiff's alleged knee injuries is not in conformity with the terms of the Guides, his WPI rating does not constitute substantial evidence to support an award of workers' compensation benefits.

As to the issue of the cause of Plaintiff's alleged knee problems the input of Dr. Hoskins, due to the lack of knee x-rays, does not provide persuasive proof.

Plaintiff has not presented ample persuasive proof he sustained cumulative

> trauma work-related injuries to his knees.

Blackburn filed a petition for reconsideration taking issue with the ALJ's dismissal of his claims for cumulative trauma injuries to his low back and knees. Blackburn did not seek any additional findings of fact. Finding his opinion was supported by medical evidence in the record and there were no patent errors on the face of the opinion, the ALJ overruled the petition for reconsideration.

On appeal, Blackburn asserts evidence of substance demonstrates that due to cumulative trauma at work, his age, and past work experience he is permanently totally disabled. Blackburn relies upon the opinion of Dr. Hoskins that his lumbar condition stems from occupational cumulative trauma sustained over more than thirty years in the coal mining industry. He notes Dr. Hoskins was aware of the previous surgeries and attributed one-third of the impairment rating to the prior surgeries. Blackburn contends his and Dr. Hoskins' testimony establish he did not have a prior active impairment or disability of the lumbar spine due to the previous surgeries. He asserts Dr. Hoskins unequivocally opined that his lumbar condition was aroused into disabling reality over the course of his

employment with KY Fuel. Thus, the ALJ erred in his determination the lumbar spine problems did not stem from cumulative trauma suffered in the workplace.

Blackburn also argues the ALJ erred in his determination he did not submit ample proof he sustained cumulative trauma work-related injuries to his knees. He cites to the report of Dr. Hoskins and his own testimony regarding the physical nature of the work he performed and the toll it took on his knees. Blackburn notes Dr. Hoskins diagnosed bilateral patellofemoral arthritis which he attributed to cumulative trauma suffered in the workplace. Therefore, he asserts he presented persuasive proof he sustained work-related cumulative trauma injuries to his knees. Blackburn seeks reversal of the ALJ's decision and remand with directions he be determined permanently totally disabled.

On review, we find Blackburn's appeal to be nothing more than a re-argument of the evidence before the ALJ. Blackburn impermissibly requests this Board to engage in fact-finding and substitute its judgment as to the weight and credibility of the evidence for that of the ALJ. That is not the Board's function. *See* KRS 342.285(2); Paramount Foods, Inc. v. Burkhardt, 695 S.W.2d 418 (Ky. 1985).

As the claimant in a workers' compensation proceeding, Blackburn had the burden of proving each of the essential elements of his cause of action. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Since Blackburn was unsuccessful in that burden, the question on appeal is whether the evidence compels a different result. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Compelling evidence" is defined as evidence that is so overwhelming no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985). The function of the Board in reviewing the ALJ's decision is limited to a determination of whether the findings made by the ALJ are so unreasonable under the evidence that they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

As fact-finder, the ALJ has the sole authority to determine the weight, credibility and substance of the evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). Similarly, the ALJ has the discretion to determine all reasonable inferences to be drawn from the evidence. Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997); Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979). The ALJ may reject any testimony and

believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000). Although a party may note evidence that would have supported a different outcome than that reached by an ALJ, such proof is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to the weight and credibility to be afforded the evidence or by noting reasonable inferences that otherwise could have been drawn from the record. Whittaker v. Rowland, 998 S.W.2d 479, 481 (Ky. 1999). So long as the ALJ's ruling with regard to an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986).

The March 25, 2014, report of Dr. Kriss reflects he conducted an examination of Blackburn on that same date. The report also sets forth the various medical records and diagnostic studies he reviewed. Dr. Kriss provided the following diagnoses:

> Mr. Blackburn is status post 1999 multilevel lumbar laminectomy at L4/L5 and L5/S1 for symptomatic lumbar spinal

> stenosis due to chronic osteoarthritis (bond spur 'osteophyte' formation), spondylosis (ligamentum flavum hypertrophy) and degenerative disc disease. These are all natural 'aging' processes of degeneration, common to all humans, not just Mr. Blackburn.
>
> Mr. Blackburn is status post 2011 multilevel lumbar laminectomy and excision of a benign intradural, extramedullary lumbar spinal tumor, likely ependymoma.
>
> Mr. Blackburn has chronic low back and bilateral leg pain, on a continuous basis since the 1990's, due to the combination of conditions listed above (osteoarthritis, spondylosis, degenerative disc disease, disc herniation (L5/S1), prior multilevel laminectomy, prior mid-lumbar spinal canal tumor (probable ependymoma), and post-operative scarring.
>
> Mr. Blackburn has POSSIBLE work-related cumulative trauma causing chronic back and leg again, but this is not PROBABLE. The non-work-related factors in this man are so obvious, so severe, so persistent (continuous), and so chronic (severe enough to require multilevel lumbar spinal surgery at the relatively young age of 37), it is medically and common-sense wise quite clear that these natural aging degenerative processes, in combination with not one, but two surgeries, supplemented by a SPINAL TUMOR, are responsible for the chronic lumbar symptoms, not Mr. Blackburn's blasting supervisor job.

Based on the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides"), Dr. Kriss assessed a 13%

impairment rating as a result of the prior surgeries. Dr. Kriss noted Dr. Bishop's July 1, 2013, note suggests multiple causes for Blackburn's back and leg pain. Dr. Bishop unequivocally stated Blackburn's chronic ongoing lumbar radiculopathy is from the laminectomy surgery performed in 1999. Consistent with this statement, Blackburn confirmed he had continuous uninterrupted low back and bilateral leg pain "since prior to 1999." Further, according to Blackburn, the 1999 surgery was non-work-related. Dr. Kriss wrote:

> With both patient and family physician explicitly confirming CONTINUOUS back and leg pain for more than 17 years, and with both patient and physician explicitly originating the chronic lumbar symptoms that non-work-related (degenerative) causes leading to a non-work-related lumbar surgery 15 years ago, there can be no doubt that the proximate cause and 'driving force' for back and leg pain of more than 17 years duration is indeed degenerative, as both patient and doctor confirm.

Dr. Kriss noted the 2011 surgery consisted of a laminectomy and tumor excision at L1/L2, L2/L3, and L3/L4 which contributed to Blackburn's chronic back and left leg pain. Dr. Kriss concluded there is no objective evidence of work-related permanent harmful change. Dr. Kriss opined that even though Dr. Bishop "proclaims PERMANENT, [s]ignificant repetitive work-related causation for

Blackburn's back pain in July 2013," there is no corresponding change in Blackburn's physical or neurological examination, restrictions, or level of treatment. Dr. Kriss was unable to discern any objective medical basis to support imposing permanent physical restrictions.

The July 7, 2015, report of Dr. Corbett reveals he conducted a physical examination, obtained a medical history, and reviewed x-rays and various medical records. Dr. Corbett stated the opinions of Dr. Kriss regarding causation are "spot on." Dr. Corbett concluded as follows:

> This is a 53-year-old, obese coal miner with a history of lumbar surgery for discectomy on a nontraumatic, non-work-related basis, as well as a more recent lumbar laminectomy and extensive tumor resection from the lumbar spine and persistent evidence of a neurologic deficit which, from the records, appears to relate to the surgery and condition of 1999. This includes the atrophy currently evident in Mr. Blackburn's left lower extremity and the ongoing descriptions in his primary care notes from Dr. Bishop of 'radiculopathy.'
>
> In addition, the current x-rays are surprisingly benign and, although they do demonstrate multilevel degenerative disk changes of the lumbar spine and a minimal reflection of degenerative disk disease of the cervical spine, there is no reflection at all of a traumatic etiology. These, for all intents and purposes, appear to be age-related

> changes. In addition, the degenerative changes identified in Mr. Blackburn's knees are of minimal degree, considering his body size and do not indicate the evidence of an impairment.[2] There is no evidence of a gait deformity and there is no evidence of sufficient arthritic change in the knee, irrespective of causation, rising to the level of an impairment rating under the 5th Edition of the AMA *Guides*.
>
> As Dr. Kriss stated, it is not legal under Kentucky Statute to ascribe injury to the natural aging process. The default position is not post-traumatic in etiology. I found no evidence of a specific condition attributable to cumulative trauma. This relates to Mr. Blackburn's cervical spine, both shoulders, thoracic and lumbar spine, and both knees. Since there is a 0% impairment attributable and there is no condition which warrants protection, I do not feel that permanent restrictions are required for this individual and I note specifically that an objective Functional Capacity Evaluation has never been performed nor has a specific electrodiagnostic evaluation to the lower extremities.
>
> I believe my conclusions are well within the realm of reasonable medical probability. I definitely second the reasoning provided by Dr. Kriss in his expose.

The opinions of Drs. Kriss and Corbett qualify as substantial evidence sufficient to support the ALJ's determination concerning Blackburn's claim for work-related

[2] Dr. Corbett's report reflects Blackburn's height is 6' 4 ½" and his eight is 296 pounds.

cumulative trauma injuries to his low back and knees. Consequently, the fact the record contains conflicting testimony from other medical experts contrary to the ALJ's conclusions does not compel a different result. Copar, Inc. v. Rogers, 127 S.W.3d 554 (Ky. 2003). As fact-finder, the ALJ is vested with the authority to weigh the medical evidence, and if "the physicians in a case genuinely express medically sound, but differing, opinions as to the severity of a claimant's injury, the ALJ has the discretion to choose which physician's opinion to believe." Jones v. Brasch-Barry General Contractors, 189 S.W.3d 149, 153 (Ky. App. 2006).

In addition, the records of the University of Kentucky Medical Center and Dr. Tibbs establish the initial surgery performed in 1999 was necessitated by an event at home. This is buttressed by Blackburn's admission to Dr. Kriss that the first back surgery in 1999 was not work-related. The records from the University of Kentucky Medical Center and Dr. Tibbs also reflect the 2011 surgery was caused by a presence of tumor at the L2/L3 level resulting in a laminectomy for resection of the tumor. Thus, the records of the University of Kentucky Medical Center and Dr. Tibbs as well as the opinions of Drs. Kriss and Corbett constitute substantial evidence supporting the

ALJ's finding that Blackburn's lumbar problems are not due to cumulative trauma experienced while working as a surface coal miner but existed because of the 1999 and 2011 surgeries both of which were necessitated due to non-work-related causes.

Similarly, the evidence does not compel a finding Blackburn sustained work-related cumulative trauma injuries to his knees. Dr. Hoskins acknowledged he had not obtained or reviewed x-rays of Blackburn's knees prior to assessing an impairment rating. A copy of Table 17-31 of the AMA Guides styled "Arthritis Impairments Based on Roentgenographically Determined Cartilage Intervals" is attached to Dr. Hoskins' testimony. Dr. Hoskins indicated he relied upon a footnote below the table permitting assessment of a 2% whole person impairment rating when an individual with a history of direct trauma, a complaint of patellofemoral pain, and crepitation on physical examination, but without joint space narrowing on x-rays. However, it is apparent the criteria contained in that footnote was not met as there is no history of direct trauma. Thus, we believe the ALJ was well within his discretion in rejecting Dr. Hoskins' opinion as not being based upon the AMA Guides and because he did not have the

benefit of x-rays at the time he assessed his impairment rating.

The ALJ determines the weight to be accorded the evidence. Within his discretion, the ALJ concluded Dr. Hoskins' opinion had no probative value and disregarded it. Significantly, in his Form 107 dated September 11, 2014, Dr. Hoskins assessed a 2% impairment rating for each knee but provided no discussion in support of the impairment rating assessed for each knee. In addition, even though the ALJ did not rely upon Dr. Corbett's opinions in resolving the claim for injuries to the knees, Dr. Corbett's opinions comprise substantial evidence supporting the ALJ's decision.

Accordingly, because the ALJ's decision is supported by substantial evidence and the record does not compel a different result, the March 7, 2016, Opinion and Order and April 27, 2016, Order overruling the petition for reconsideration are **AFFIRMED**.

ALL CONCUR.

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