

Commonwealth of Kentucky  
Workers' Compensation Board

OPINION ENTERED: March 27, 2020

CLAIM NO. 201683591 & 201662347

DARRESHIA HAYES

PETITIONER

VS.                   **APPEAL FROM HON. JOHN H. McCracken,  
ADMINISTRATIVE LAW JUDGE**

FIRST TRANSIT and  
HON. JOHN H. McCracken,  
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

**OPINION  
AFFIRMING**

\* \* \* \* \*

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

**ALVEY, Chairman.** Darreshia Hayes (“Hayes”) appeals from the September 13, 2019 Opinion, Award and Order rendered by Hon. John H. McCracken, Administrative Law Judge (“ALJ”). The ALJ found Hayes sustained a temporary right wrist injury on May 12, 2016, and another temporary right wrist injury on October 27, 2016. He awarded limited periods of medical expenses for each injury. The ALJ found Hayes’ right wrist ganglion cysts were neither related to nor

aggravated by the work incidents. He therefore found no medical expenses related to the treatment of the cysts, including surgery, are compensable. Hayes also appeals from the October 17, 2019 Order overruling her petition for reconsideration.

On appeal, Hayes argues she is entitled to temporary total disability (“TTD”) benefits during the time she was off work for the surgery since it was based upon a misdiagnosis that the cysts caused her right wrist complaints, citing to Elizabethtown Sportswear v. Stice, 720 S.W.2d 732 (Ky. App. 1996). Hayes further argues she is entitled to benefits for a permanent injury. Because substantial evidence supports the ALJ’s determination Hayes sustained only temporary right wrist injuries due to the May 12, 2016 and October 27, 2016 work events, which neither caused nor aggravated her right wrist ganglion cysts, and a contrary result is not compelled, we affirm.

Hayes filed two Form 101s on May 4, 2018, alleging separate right wrist injuries while working for First Transit as a coach driver. In one of her claims, Hayes alleged she heard a pop in her right wrist as she was securing a wheelchair-bound passenger onto the bus with straps on May 12, 2016. In the other claim, Hayes alleged she injured her right wrist on October 27, 2016 while pushing a passenger up a ramp in a wheelchair. Subsequently, the ALJ consolidated the two claims. The Form 104 indicates Hayes worked for First Transit as a coach driver from March 2014 to March 6, 2017.

Hayes testified by deposition on August 7, 2018 and March 26, 2019, and at the final hearing held July 23, 2019. Hayes began working for First Transit, which is part of the Louisville bus system providing transportation services to

handicapped individuals, in March 2014. She drove a bus or van to transport passengers. She assisted both ambulatory and wheelchair-bound passengers entering and exiting the vans or buses. She pushed wheelchair passengers onto a lift, secured the belts, and operated the lift. She also pushed wheelchair-bound passengers onto the bus and secured them with belts into position once inside the bus. Hayes also assisted ambulatory passengers.

Hayes testified that on May 12, 2016, she heard a pop in her right wrist as she strapped in a wheelchair-bound passenger onto the bus. She completed her shift, but experienced right wrist pain. Hayes subsequently went to the emergency room where she was provided a wrist splint and Ibuprofen. She then treated at Baptistworx, Kleinert Kutz, and Louisville Arm and Hand. Hayes testified she was restricted to light duty work after the May 2016 accident. At her first deposition, Hayes indicated she picked up trash, performed filing duties, and sorted paperwork in the maintenance department. Hayes could not recall how long she worked in this light duty capacity but indicated at some point she was released to return to work without restrictions, possibly in September 2016. Hayes was working her usual job as a driver without restrictions at the time of her second work injury.

Hayes testified that on October 27, 2016, she was again strapping in a wheelchair-bound passenger, felt a pop in her right wrist, and developed pain. She returned to the emergency room and continued to treat at Louisville Arm and Hand. She was restricted from pushing or pulling passengers over a certain weight. Dr. David Tate performed surgery to remove a ganglion cyst in her right wrist in March

2017. The workers' compensation insurer denied liability for the surgery. Hayes testified the surgery did not relieve her right wrist pain.

At her first deposition, Hayes indicated she worked light duty after the second accident for "maybe a few months." Later, she indicated she worked light duty until the March 2017 surgery. Either way, Hayes testified her job included fueling vehicles. At her second deposition, Hayes stated she was not sure whether she worked at all after the second work incident.

Hayes was restricted from work for approximately three months after the March 2017 surgery. Afterward, she was released to return to work with restrictions in June 2017. Hayes was unable to find a job with First Transit within her restrictions. Hayes did not return to work for First Transit after the March 2017 surgery. Hayes worked for Spectrum TV as a billing representative from March 2018 to April 2019, and was subsequently terminated from that position for reasons unrelated to her right wrist condition.

Hayes continues to experience right wrist pain and wears a brace. Hayes believes she is unable to return to her former job as a driver with First Transit because she cannot assist heavy passengers.

The medical records demonstrate Hayes visited the emergency room of Sts. Mary & Elizabeth Hospital on May 12, 2016. She reported right wrist pain after strapping down a wheelchair at work. Hayes was diagnosed with a right wrist sprain, prescribed Ibuprofen, and instructed to wear a wrist splint for one week. Hayes was allowed to return to work on May 14, 2016 with restrictions of one-handed duty and no lifting over ten pounds for one week. Thereafter, Hayes treated

at Baptist Health on three occasions in May and June 2016. Hayes was diagnosed with a right wrist sprain, and had complaints of neuropathy for which she received conservative treatment. Hayes was restricted to limited use of her right wrist, to avoid repetitive flexion/extension of the right wrist, and to wear a wrist splint. Hayes was referred to Kleinert Kutz on June 6, 2016, when her pain did not resolve.

Hayes treated with Dr. Huey Tien of Kleinert Kutz from June 22, 2016 to August 19, 2016 for right wrist symptoms due to the May 12, 2016 work incident. On June 22, 2016, Dr. Tien ordered an MRI and released Hayes to return to work without restrictions. The July 20, 2016 MRI demonstrated a lobulated dorsal carpal ganglion cyst at the distal scapholunate interval; a lobulated volar radioscaphoid ganglion; mild sprain of the dorsal radioulnar ligament; and subcortical cysts within the lateral aspect of the lunate. Dr. Tien interpreted the MRI as demonstrating two small ganglion cysts in the SL joint. Dr. Tien diagnosed right wrist pain, recommended her to continue using a wrist brace, and administered an injection. He instructed Hayes to avoid pushing wheelchairs with increased force or weight, and to avoid extreme wrist extension. He discussed removing the ganglion cyst if her right wrist symptoms persisted. Hayes returned on August 19, 2016, reporting her right wrist pain had returned, and she was working with restrictions. Dr. Tien diagnosed, “right dorsal wrist pain (dorsal SL joint ganglion cyst; dorsal radioulnar ligament sprain).” He noted as follows:

Patient continues to complain [sic] pain over her right dorsal wrist at SL joint area and has been wearing braces at all times. Worker’s comp. reviewer rejected ganglion cyst as a part of the Worker’s Comp. situation. Other than that, there is no pain at dorsal DRUJ area. At this moment, she has reached maximal medical

improvement and there is no permanent physical deficits noticed. She will resume regular work and will be seen [sic] office as needed.

Hayes next treated with her primary care facility at Family Health Center Portland on September 6, 2016 to request a referral for a second opinion regarding her right wrist condition. The next day, Hayes returned to Baptist Health. The note from that visit indicated Hayes was returned to regular duty by Dr. Tien on August 19, 2016 and by her primary care physician on September 6, 2016. Hayes was diagnosed with right posterior ganglion wrist and she was allowed to return to regular duty.

Hayes saw Dr. Leela Farr at Louisville Arm and Hand on September 19, 2016 for a second opinion as to whether her right wrist symptoms were due to the May 2016 work injury. Dr. Farr requested copies of the MRI. She diagnosed wrist pain, possibly due to an occult cyst. Hayes returned to the emergency room on October 27, 2016, reporting right wrist pain while she was pushing a heavy passenger in a wheelchair. Hayes was diagnosed with a right wrist sprain. Hayes was excused from work for one day, and restricted to one-handed duty for ten days.

Once Dr. Farr reviewed the MRI, she diagnosed multiple ganglion cysts at the wrist. On November 2, 2016, she discussed removal of the dorsal ganglion cysts. Dr. Farr noted, "advised that pt.'s job is causing aggravation of the cysts, though the origin of the masses are unknown." Hayes next treated with her primary care physician on November 8, 2016, who diagnosed right wrist sprain. He took Hayes off work for one day, and then restricted her from heavy pushing and pulling of patients in wheelchairs for one week.

Hayes next saw Dr. Tate on January 27, 2017. He noted the presence of ganglion cysts, both volarly and dorsally in the right wrist. He noted Hayes' pain was located on the dorsum of the wrist. Dr. Tate diagnosed right wrist pain and a ganglion cyst of the right wrist and discussed excision of the occult ganglion cyst. On February 17, 2017, Dr. Tate noted "... occult right dorsal wrist ganglion is present volar ganglion present to with that is not painful dorsal side though remains a rather severe bother to the patient." Dr. Tate diagnosed Hayes with a ganglion cyst of dorsum of the right wrist and noted she wished to proceed with the excision surgery. The surgery to remove the ganglion cyst of the right dorsal wrist was evidently performed on March 6, 2017, although the surgical report was not submitted. Off work slips from March 24, 2017 and June 14, 2017 were filed into the record. On June 21, 2017, Hayes was released to return to restricted activity pending the results of a functional capacity evaluation ("FCE").

An FCE was performed on July 28, 2017 by Ron Cole, P.T. He concluded Hayes' abilities and recommended restrictions prevented her from returning to her previous employment with First Transit. He specifically noted Hayes is unable to push individuals weighing over two hundred pounds up or down wheelchair inclines or threshold barriers.

In a questionnaire dated August 11, 2017, Dr. Tate stated that, based upon his review of the FCE, Hayes did not retain the capacity to use both hands to push wheelchair-bound passengers weighing over two hundred pounds up and down lifts and on and off buses. Likewise, he indicated she is unable to assist wheelchair

and/or ambulatory passengers weighing over two hundred pounds in getting in and out of their seats.

In another questionnaire dated October 27, 2017, Dr. Tate indicated the surgical excision of the right ganglion cyst did not relieve Hayes' pain. Dr. Tate was asked the following question:

Based on the FCE of this patient performed on 07/28/17 and the history that the ganglion cyst did not relieve the pain in the wrist of the patient and that the patient worked until her right wrist strain of 10/27/16, does it appear that it was the right wrist strain of 10/27/16 which aggravated and worsened a pre-existing condition of the wrist in this patient?

Dr. Tate responded, "speculation to comment wrist strain not mentioned to me."

Dr. Tate opined Hayes is unable to perform her job duties with First Transit due to her wrist strain sustained on October 27, 2016, based upon the FCE. He also noted Hayes did not display maximum effort during the FCE.

Dr. Daniel Wolens performed an August 4, 2016 medical records review at First Transit's request to address whether Hayes' intracarpal cysts cause her right wrist symptoms, and if so, whether they are related to the May 12, 2016 work incident. Dr. Wolens reviewed the medical records and discussed scientific literature on ganglion cysts. Dr. Wolens opined the work incident did not cause the development of ganglion cysts. He noted there was no history of a cumulative trauma, and the May 2016 event was not traumatic on a biomechanical basis. He further noted the significant presence of ganglion cysts in the pediatric population, which is not exposed to cumulative trauma. He noted a large majority of ganglion cysts do not cause pain. He also opined the fact that there are two separate ganglion

cysts, both of which are multilobulated and arise from two distinct anatomical regions of the wrist, argues against a single point event for their origin. Dr. Wolens opined an episode of fastening a seatbelt would not cause this type of cyst, and the surgery was not necessitated by the May 12, 2016 work event. Dr. Wolens opined Hayes attained maximum medical improvement (“MMI”) from the strain of the radioulnar ligament three to six weeks after the May 12, 2016 event.

Dr. Warren Bilkey evaluated Hayes on January 11, 2017. He noted Hayes continued to work in her usual capacity with the use of a wrist brace. Dr. Bilkey diagnosed, “5/12/16 work injury with aggravation occurring on 10/27/16 right wrist strain. Ms. Hayes has acquired chronic right wrist pain.” At the time of his evaluation, Dr. Bilkey noted surgery had been recommended. Dr. Bilkey opined the diagnoses are due to the May 12, 2016 work injury, and Hayes had not yet attained MMI. He advised Hayes to continue to wear the wrist brace and noted his concern with her pushing heavy individuals at work. He assessed a permanent impairment rating of 4% pursuant to the American Medical Association, Guides to the Evaluation of Permanent Impairment (“AMA Guides”). In June 8, 2017 and June 16, 2017 questionnaires, Dr. Bilkey indicated Hayes is permanently restricted from using both hands in assisting wheelchair and ambulatory passengers weighing two hundred pounds or more, but she retains the capacity to drive First Transit vehicles.

Dr. Bilkey re-evaluated Hayes on June 26, 2017, after she underwent surgery on March 6, 2017 to remove a cyst from the dorsum of her right wrist. He noted Hayes had been off work since her surgery. After reviewing additional

medical records and performing an examination, Dr. Bilkey diagnosed, “5/12/16 work injury with aggravation occurring on 10/27/16 right wrist strain. Ms. Hayes has acquired chronic right wrist pain. She has undergone right wrist surgery on the dorsal aspect of the wrist without significant change in symptoms.” Dr. Bilkey opined Hayes had reached MMI. He stated as follows regarding her injury sustained due to the work incidents:

The work injury history that Ms. Hayes acquired is a wrist strain injury. Whether or not this relates to cysts can't be known. It must be assumed that the cysts had pre-existed the work injuries and were asymptomatic. They could have been aggravated by the work injuries. There are however alternative sources for the pain beyond the cysts, including the MRI verified abnormalities which may have been aggravated by the work injury. Her work injury history is thus a wrist strain and not wrist ganglions.

Dr. Bilkey restricted Hayes from pushing wheelchair-bound passengers weighing over two hundred pounds, which interferes with Hayes' ability to carry out the full scope of her usual work duties. Dr. Bilkey assessed a 3% impairment rating for pain pursuant to the AMA Guides attributable to her work injuries. Dr. Bilkey also answered several yes/no questionnaires prepared by Hayes' counsel in July 2017.

In a letter dated August 1, 2017, Dr. Bilkey reviewed the July 28, 2017 FCE and amended his assessment of an impairment rating to 5% pursuant to the AMA Guides. In a September 10, 2018 letter, Dr. Bilkey disagreed with Dr. Michael Nicoson's assessment of impairment. Dr. Bilkey opined Hayes' injuries warranted a 3% impairment rating. In an April 22, 2019 letter, Dr. Bilkey clarified he believed Hayes' retained a 5% impairment rating as discussed in his August 1, 2017 report.

Dr. Nicoson evaluated Hayes on August 2, 2018 at First Transit's request. He noted the two work injuries and continued complaints of right wrist pain and swelling. He noted Hayes underwent right wrist surgery in May 2017, which did not relieve her right wrist symptoms. He noted his exam findings were inconsistent with Hayes' complaints. Dr. Nicoson opined Hayes sustained right wrist sprains on May 12, 2016 and on October 27, 2016. He noted wrist sprains typically resolve within six to twelve weeks. Dr. Nicoson found permanent restrictions unnecessary for Hayes' right wrist sprains which should have resolved no more than twelve weeks after the work incidents. He opined Hayes required no further treatment. Dr. Nicoson found Hayes had reached MMI, had fully recovered from her right wrist injuries, and is capable of returning to work.

Dr. Nicoson noted Hayes was diagnosed with volar and dorsal wrist ganglion cysts. Dr. Nicoson stated he is "in agreement with Dr. Tien that the ganglion cysts that were seen on the MRI imaging are not related to her work incidents. . . The ganglions . . . are not definitely related to her work incidents. It is quite within the realm of possibility that theses ganglions were present far before the work-related incidents occurred."

The ALJ rendered an opinion on September 13, 2019. The ALJ found Hayes sustained temporary right wrist injuries on May 12, 2016 and October 27, 2016 based upon Dr. Tien's medical records, and the opinions of Drs. Wolens and Nicoson. The ALJ found Hayes reached MMI from the May 12, 2016 injury on August 19, 2016, when Dr. Tien released her to work without restrictions. The ALJ found Hayes reached MMI from the October 27, 2016 right wrist sprain/strain three

months post injury, on January 25, 2017. The ALJ made the following findings supporting his determination of temporary injuries only:

The evidence is very conflicting as to whether Hayes sustained a permanent injury on May 12, 2016 or October 27, 2016. Dr. Tien placed her at MMI and released her to full duty work on August 19, 2016. On September 7, 2016, a Baptistworx physician (the ALJ is unable to read the signature) returned Hayes to regular duty. The Baptistworx doctor noted Hayes[sic] grasp was hindered by excessive nail length. Dr. Wolens stated that a wrist strain/sprain typically heals within three to six months. Dr. Nicoson stated that wrist sprains typically heal within 12 weeks of an injury. Dr. Bilkey stated Hayes has chronic wrist pain.

The ALJ reviewed Dr. Bilkey's impairment assessments and they are concerning. He initially assessed a 4% impairment stating Hayes had a 1% based upon range of motion and 3% due to pain. He later stated she had a 3% based upon a pain rating alone. The ALJ notes that a pain only impairment, with no accompanying physical impairment, appears to be inconsistent with the AMA Guides. After reviewing the FCE, he stated Hayes had a 5% impairment based on range of motion and provides no pain impairment. However, Dr. Bilkey had not seen Hayes since June 2017. In this particular case, Dr. Bilkey's opinions regarding Hayes injuries and their permanence are not as credible as those of Dr. Tien, Dr. Wolens or Dr. Nicoson. Dr. Bilkey simply has too many inconsistencies.

....

In this case, the ALJ finds that Hayes has not met her burden of proof that she has sustained a permanent right wrist injury on May 12, 2016 or October 27, 2016. The ALJ notes that Hayes[sic] medical records are inconsistent. When she treated on October 27, 2016, her records indicate that she had a new right wrist problem that occurred that day, yet she stated she had an ongoing right wrist problem. The records also indicate that the October 27, 2016 incident was not work related. Why did Dr. Tien record that Hayes was unhappy when she was told that her condition might not be work related? Why did she fail to tell Dr. Tate she had a wrist strain?

The ALJ relies on Dr. Wolens, Dr. Tien and Dr. Nicoson to find that both the May 12, 2016 and October 27, 2016 work injuries were temporary, not permanent injuries.

The ALJ relies on Dr. Tien to find that Hayes reached MMI with regards to the May 12, 2016 injury on August 19, 2016. This is consistent with both Dr. Wolens and Dr. Nicoson's opinions on when a wrist strain typically reaches MMI. The ALJ relies on Dr. Tien to find that she was capable for full duty work as of August 19, 2016.

The ALJ relies on Dr. Wolens and Dr. Nicoson to find that Hayes reached MMI with regards to the October 27, 2016 right wrist strain/sprain three months post injury. The ALJ finds that she reached MMI on January 25, 2017.

The ALJ determined Hayes is not entitled to TTD benefits from May 12, 2016 through August 19, 2016, or from the October 27, 2016 work injury to January 25, 2017. The ALJ determined the ganglion cysts were neither caused nor aggravated by either of Hayes' work events of May 12, 2016 or October 27, 2016 based upon Dr. Wolen's and Dr. Tate's opinions. He stated as follows:

Dr. Wolens stated the cyst was not caused by the work event. Dr. Bilkey did not diagnose the cysts as work-related conditions. He stated that her work may have aggravated the cysts. Dr. Tien stated that, pre-surgery, Hayes had no pain from the cysts. The surgery was to excise the ganglion cysts. Hayes stated the removal of the cysts did not relieve her pain. There is no indication in Dr. Tate's records that the cyst removal was in any way connected to her work-related wrist sprain. Dr. Tate stated Hayes did not even motion[sic] that she had a wrist sprain.

The ALJ relies on Dr. Wolens and Dr. Tate to find that the ganglion cysts are not related to her work injuries of May 12, 2016 or October 27, 2016. The ALJ relies on Dr. Tate to find Hayes' work did not aggravate or cause her pain from the cysts. He examined the cysts pre-

surgery and specifically noted that the cyst was not causing pain. Considering Hayes statements that the surgery did not help her symptoms, it is hard for the ALJ to believe that her work aggravated the cyst that she told Dr. Tate was not painful.

The ALJ finds that all medical expenses related to the treatment of, and surgery on, the cysts are not compensable and the employer is relieved of liability for the payment of those expenses.

....

The ALJ has found the cysts and related surgery not work-related. Therefore, the ALJ finds that no TTD is warranted for the time following the March 6, 2017 surgery.

....

The ALJ dismissed Hayes's claims for permanent partial disability ("PPD") and TTD benefits for both injuries. The ALJ awarded Hayes medical expenses for the effects of the May 12, 2016 temporary right wrist injury from May 12, 2016 through August 19, 2016. The ALJ also awarded Hayes medical expenses for the effects of the October 27, 2016 temporary right wrist injury from October 27, 2016 to January 25, 2017.

Hayes filed a petition for reconsideration. After providing a seven-page interpretation of the evidence, Hayes requested the ALJ to reconsider his finding she is not permanently injured, and award PPD benefits based upon Dr. Bilkey's opinion. In the alternative, Hayes requested the ALJ to reconsider his finding she is not entitled to TTD benefits, and award TTD benefits from October 27, 2016 through January 25, 2017 and from May 12, 2016 to August 19, 2016. Hayes requested the ALJ to specifically find how long she was off work. She also requested the ALJ find she was off work from October 27, 2016 through either June

28, 2017 (when Dr. Tate released her to return to work) or until the time of her FCE on July 28, 2017. Hayes also asserted her surgery should be compensable because an injury resulting from an incorrect diagnosis is compensable to the extent that there is a permanent injury, citing to Elizabethtown Sportswear v. Stice, *supra*. Hayes reasoned that since the surgery was performed to treat the effects of her work injury, it should be compensable for the effects of the incorrect diagnoses of her work injury.

The ALJ overruled Hayes petition, stating as follows:

On page 9 of the Petition, Plaintiff requests additional findings of fact relating to TTD. However, the ALJ previously found that he was unable to determine from the record whether Plaintiff missed sufficient days for the compensable injury to allow for an award of TTD. The ALJ found in favor of Plaintiff a temporary injury with her readching[sic] MMI on August 19, 2016. The ALJ found that the cysts in her wrists were not work related and that any medical expenses incurred as a result of treatment of the cysts was not compensable. The Baptist Health medical records from May 12, 2016 to the date of MMI all indicate that Plaintiff was returned to work with restrictions. the[sic] May 17, 2016, May 23, 2016 and June 6, 2016 records return her to work with restrictions. While the May 12, 2016 record returns her to work on May 14, 2016, this is insufficient loss time to award TTD. The ALJ reviewed her testimony and was not able to find evidence where she missed enough days from work to justify an award of TTD during the period of the temporary injury.

On appeal, Hayes argues she is entitled to TTD benefits during the time she was off work due to the March 2017 surgery, which she contends was a misdiagnosis. Hayes asserts the misdiagnosis entailed the belief by Dr. Tate that her right wrist symptoms were due to the cyst. Hayes argues the Kentucky Supreme Court held that an injured worker is entitled to benefits from the time he or she is

kept off work for a negligently diagnosed treatment of a work injury in Elizabethtown Sportswear v. Stice, *supra*. According to Hayes, it makes no difference whether Dr. Tate committed malpractice by diagnosing the cyst as the cause of Hayes' right wrist problems.

Hayes further argues she is entitled to recover benefits for a permanent right wrist injury. Hayes points out Dr. Tate agreed she has permanent restrictions. Hayes also asserts the ALJ erred in finding the opinions of Dr. Bilkey not persuasive. Hayes argues the ALJ did not provide adequate findings of fact supporting his decision to not rely on Dr. Bilkey's opinions or to consider the fact Dr. Tate's opinions expressed in the August 11, 2017 and October 27, 2017 questionnaire.

As the claimant in a workers' compensation proceeding, Hayes had the burden of proving each of the essential elements of her claim. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Because Hayes was unsuccessful in convincing the ALJ she sustained a permanent right wrist injury and that she is entitled to TTD benefits for the period she was off work due to the surgery, 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 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 sole authority to judge 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); Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999). Mere evidence contrary to the ALJ's decision is inadequate to require reversal on appeal. Id. In order to reverse the decision of the ALJ, it must be shown there was no substantial evidence of probative value to support his decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

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 which otherwise could have been drawn from the record. Whittaker v. Rowland, supra. As 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, supra.

Since the rendition of Robertson v. United Parcel Service, 64 S.W.3d 284 (Ky. 2001), this Board has consistently held it is possible for an injured worker to establish a temporary injury for which temporary benefits may be paid, but fail to prove a permanent harmful change to the human organism for which permanent

benefits are payable. In Robertson, the ALJ determined the claimant failed to prove more than a temporary exacerbation and sustained no permanent disability because of his injury. Therefore, the ALJ found the worker was entitled to only medical expenses the employer had paid for the treatment of the temporary flare-up of symptoms. The Kentucky Supreme Court noted the ALJ concluded Robertson suffered a work-related injury, but its effect was only transient and resulted in no permanent disability or change in the claimant's pre-existing spondylolisthesis. The Court stated:

Thus, the claimant was not entitled to income benefits for permanent partial disability or entitled to future medical expenses, but he was entitled to be compensated for the medical expenses that were incurred in treating the temporary flare-up of symptoms that resulted from the incident. Id. at 286.

We determine substantial evidence supports the ALJ's determination Hayes sustained temporary right wrist injuries on May 12, 2016 and October 27, 2016, and a contrary result is not compelled. Hayes was consistently diagnosed with a right wrist sprain following the May 12, 2016 work incident. Dr. Wolens opined Hayes attained MMI from the strain of the radioulnar ligament three to six weeks after the occurrence of that event. Dr. Nicoson opined Hayes sustained right wrist sprains on May 12, 2016 and on October 27, 2016. He noted wrist sprains typically resolve within six to twelve weeks. Dr. Nicoson found permanent restrictions unnecessary. He stated the right wrist sprains should have resolved no more than twelve weeks after the work incidents. He found Hayes had attained MMI, required no further treatment, had fully recovered from her right wrist injuries, and was fully capable of returning to work. The above evidence constitutes substantial evidence

supporting the ALJ's determination Hayes sustained temporary right wrist injuries due to the work incidents, and a contrary result is not compelled.

Authority generally establishes an ALJ must effectively set forth adequate findings of fact from the evidence in order to apprise the parties of the basis for his decision, although he is not required to recount the record with line-by-line specificity nor engage in a detailed explanation of the minutia of his reasoning in reaching a particular result. Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chafins, 502 S.W.2d 526 (Ky. 1973). The ALJ must only provide findings sufficient to inform the parties of the basis for the decision to allow for meaningful review, and his recitation of the evidence must be accurate. Kentland Elkhorn Coal Corp. v. Yates, 743 S.W.2d 47 (Ky. App. 1988); Shields v. Pittsburgh and Midway Coal Mining Co., supra; Big Sandy Community Action Program v. Chafins, supra. The ALJ accurately recited the evidence and adequately set forth the reasoning behind his ultimate decision. In addition, he more than adequately explained why he did not find Dr. Bilkey's opinion persuasive.

We next determine substantial evidence supports the ALJ's determination Hayes' right wrist ganglion cysts were neither due to nor aggravated by the work incidents, and no contrary result is compelled. Causation is a factual issue to be determined within the sound discretion of the ALJ as fact-finder. Union Underwear Co. v. Scarce, 896 S.W.2d 7 (Ky. 1995). When the question of causation involves a medical relationship not apparent to a layperson, the issue is properly within the province of medical experts and an ALJ is not justified in

disregarding the medical evidence. Mengel v. Hawaiian-Tropic Northwest and Central Distributors, Inc., 618 S.W.2d 184, 186-187 (Ky. App. 1981). Medical causation must be proven by medical opinion within “reasonable medical probability.” Lexington Cartage Company v. Williams, 407 S.W.2d 395 (Ky. 1966). The mere possibility of work-related causation is insufficient. Pierce v. Kentucky Galvanizing Co., Inc., 606 S.W.2d 165 (Ky. App. 1980).

Dr. Wolens opined the May 12, 2016 work incident did not cause the development of ganglion cysts. He noted there was no history of cumulative trauma and the May 2016 event was not traumatic on a biomechanical basis. He further noted the significant presence of ganglion cysts in the pediatric population, although this population is not exposed to cumulative trauma. He noted the majority of ganglion cysts do not cause pain. He also opined the fact that there are two separate ganglion cysts, both of which are multilobulated and arise from separate distinct anatomical regions of the wrist, argues against a single point event for their origin. Dr. Wolens opined an episode of fastening a seatbelt would not cause this type of cyst, and that the surgery to remove it was not caused by the May 12, 2016 work event.

Dr. Nicoson stated he is “in agreement with Dr. Tien that the ganglion cysts that were seen on the MRI imaging are not related to her work incidents... . The ganglions . . . are not definitely related to her work incidents. It is quite within the realm of possibility that theses ganglions were present far before the work-related incidents occurred.”

As we previously noted, Dr. Bilkey did not unequivocally relate the ganglion cysts to the May 12, 2016 or October 27, 2016 work events. Dr. Bilkey stated that while the ganglions could have been aggravated by the work injuries, there are sources for pain “beyond the cysts.” “Her work injury history is thus a wrist strain and not wrist ganglions.”

Therefore, we determine substantial evidence supports the ALJ’s determination the ganglion cysts were neither caused nor aggravated by either of Hayes’ work events of May 12, 2016 or October 27, 2016, and a contrary result is not compelled.

We additionally find Hayes’ reliance on Elizabethtown Sportswear v. Stice, supra, is misplaced. In that case, it was determined that the injured worker sustained a work-related injury, and subsequently died due to an allergic reaction to the dye used in a myelogram, a necessary procedure for diagnosis and treatment of her work injury. In this instance, the ALJ determined the ganglion cysts were not work-related. Therefore, any alleged negligence or malpractice stemming from the treatment of those conditions, including surgery, is not compensable.

Accordingly, the September 13, 2019 Opinion, Award and Order, and the October 17, 2019 Order on petition for reconsideration rendered by Hon. John H. McCracken, Administrative Law Judge, are hereby **AFFIRMED**.

ALL CONCUR.

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MAYO-UNDERWOOD BLDG  
500 MERO STREET, 3<sup>rd</sup> FLOOR  
FRANKFORT, KY 40601

**LMS**