

Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: January 22, 2021

CLAIM NO. 201988318

MARK BOWERSOCK

PETITIONER

VS.

APPEAL FROM HON. GRANT S. ROARK,
ADMINISTRATIVE LAW JUDGE

JACK COOPER TRANSPORT CO. AND
HON. GRANT S. ROARK,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

OPINION
AFFIRMING IN PART,
VACATING IN PART & REMANDING

* * * * *

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

ALVEY, Chairman. Mark Bowersock (“Bowersock”) appeals from the October 5, 2020 Opinion and Order rendered by Hon. Grant S. Roark, Administrative Law Judge (“ALJ”) dismissing his claim for a permanent right knee injury occurring on March 14, 2019. Bowersock also appeals from the October 28, 2020 Order overruling his Petition for Reconsideration.

On appeal, Bowersock argues the ALJ's analysis was flawed regarding his injury or the aggravation or arousal of an underlying, dormant degenerative condition by his work incident, and his entitlement to medical treatment. We find substantial evidence supports the ALJ's determination that Bowersock sustained only a temporary right knee injury on March 14, 2019, and a contrary result is not compelled; therefore, we affirm. However, we vacate in part and remand for the ALJ to address Bowersock's entitlement to medical benefits for his temporary right knee injury in accordance with the holding in Robertson v. United Parcel Service, 64 S.W.3d 284 (Ky. 2001).

Bowersock filed a Form 101 alleging he injured his right knee on March 14, 2019 when he fell off a ramp and twisted his knee in the course of his employment with Jack Cooper Transport Company ("Jack Cooper").

Bowersock testified by deposition on June 2, 2020, and at the hearing held August 6, 2020. Bowersock resides in Madison, Tennessee, and he was born in September 1961. He completed high school and attended a formal driving school to obtain his CDL. Bowersock began his driving career in the 1990s, and started working for Jack Cooper in August 2001 as a driver/car hauler, primarily hauling Ford Escapes from Louisville to dealerships in various states. Bowersock described the physical requirements of his job, particularly when loading and unloading vehicles from his tractor and trailer.

Bowersock sustained a previous right knee injury while playing football in high school, which required surgery. He fully recovered from that injury after completing physical therapy. Bowersock sustained a work-related right knee

injury to his ACL in 1999 while hauling cars for a different employer, requiring a complete ACL reconstruction. He missed several months of work and underwent extensive rehabilitation. Thereafter, his treating physician released him to return to work without restrictions, and Bowersock returned to his job as a car hauler. Bowersock pursued a workers' compensation claim in Tennessee for the 1999 injury, which he settled in December 2000. Bowersock testified he neither sought additional medical treatment nor experienced right knee problems or pain after he recovered from the 1999 surgery until the March 14, 2019 work event. Bowersock specifically testified he did not experience any right knee problems in the months prior to the March 14, 2019 work event, he was under no formal restrictions, and he was fully capable of performing all of his job duties as a car hauler. He took no medication for his right knee prior to the March 2019 accident. Bowersock testified he was unaware of having arthritis in his right knee prior to March 2019.

On March 14, 2019, Bowersock was in the process of unloading vehicles at a dealership in Chapmanville, West Virginia. As he was walking up the rear skid, a gust of wind blew him onto the ground. Bowersock estimated he was approximately one and a half feet off the ground at the time of the accident. He stated the wind caused him to step off the skid onto the ground, and causing him to tweak his right knee. Bowersock finished unloading the vehicle and drove approximately an hour and a half to a hotel.

Bowersock testified his right knee was painful and swollen when he awoke the following morning on March 15, 2019. He notified his supervisor of the incident and sought medical treatment at Concentra. Bowersock then treated with

Dr. David Moore. After undergoing a course of conservative treatment, Dr. Moore recommended a right total knee replacement, which Bowersock has not yet undergone due to his financial situation.

Bowersock has not returned to work since the March 14, 2019 incident. Bowersock has continued to experience right knee pain and swelling. He does not believe he can return to car hauling due to his right knee condition and limitations.

Bowersock filed Concentra's records reflecting he treated with Dr. Adam Cates on at least five occasions in March 2019 following the work accident. Dr. Cates diagnosed Bowersock with a right knee strain, treated him conservatively, and imposed modified work restrictions. Dr. Cates noted a right knee x-ray demonstrated moderate suprapatellar effusion. Dr. Cates ordered a right knee MRI and ultimately referred Bowersock to an orthopedic specialist.

The April 5, 2019 right knee MRI demonstrated evidence of a prior ACL reconstruction with a chronic rupture of the graft; moderate/severe tricompartmental osteoarthritic changes of the knee; evidence of a prior proximal MCL injury; markedly diminutive medial meniscus likely representing sequela of prior partial meniscectomy and/or chronic tearing; complex tear of the posterior root of the lateral meniscus; and moderate knee joint effusion with nonspecific synovitis.

Both parties filed Dr. Moore's records for treatment he administered to Bowersock from April 23, 2019 through August 13, 2019. Dr. Moore noted the March 14, 2019 accident, as well as his previous two right knee surgeries. Dr. Moore ordered an X-ray on April 23, 2019 and noted it demonstrated severe medial

and patellofemoral compartmental joint space narrowing with bone-on-bone appearance, as well as moderate lateral compartment joint space narrowing. He also reviewed the April 5, 2019 MRI, which demonstrated evidence of a chronic ACL graft tear with moderate to severe tricompartmental osteoarthritis and a chronic proximal MCL injury. Dr. Moore diagnosed Bowersock with acute right knee pain and unilateral primary osteoarthritis in the right knee. Dr. Moore administered steroid injections, ordered additional physical therapy, prescribed medication, and restricted Bowersock to sit-down duty.

On July 16, 2019, Dr. Moore ordered a functional capacity evaluation (“FCE”) after noting Bowersock’s symptoms remained unchanged despite a repeat injection and physical therapy. Dr. Moore also did not think Bowersock’s work-related event aggravated his significant underlying arthritis. Dr. Moore did not think Bowersock’s need for a total knee replacement is related to his work injury. He recommended Bowersock to see Dr. Raab (first name unknown) for bilateral total knee arthroplasties under his own insurance. An FCE report was prepared on August 8, 2019, noting Bowersock self-terminated his activities on testing to the extent the data recorded from subjective and objective measures could not be used to conclude any level of physical capacity.

On August 13, 2019, Dr. Moore noted Bowersock’s right knee symptoms remained unchanged despite conservative treatment, and he indicated he had reviewed the FCE. He again diagnosed acute right knee pain and unilateral primary osteoarthritis in the right knee. He determined Bowersock had attained

maximum medical improvement (“MMI”) and permanently restricted him to sit-down duty. He opined as follows:

I did feel that he has aggravated his severe medial compartment osteoarthritis following his work-related injury.

....

He does retain a partial permanent impairment for his aggravation of his underlying osteoarthritis. It is clear that his only remaining treatment option would be a total knee arthroplasty. It is also quite clear that his underlying osteoarthritis was not caused by his work-related injury. I did recommend that he consider a total knee arthroplasty under his own insurance. . . .

Jack Cooper filed Dr. Zaid Fadul’s August 21, 2019 peer review/utilization review report. He opined Bowersock’s current symptoms and treatment recommendations, including a total knee arthroplasty, are due to pre-existing degenerative changes and are unrelated to the March 14, 2019 work injury. Dr. Fadul noted Bowersock’s prior right ACL reconstruction. He also noted the post-injury right knee diagnostic studies demonstrated a chronic appearing rupture of the right ACL graft with associated degenerative joint disease and osteoarthritis, and no acute findings. He noted the mechanism of injury did not detail any direct focal trauma the right knee. Dr. Fadul opined Bowersock’s post-injury symptoms and physical exam findings were consistent with the pre-existing conditions noted on the April 2019 MRI.

Bowersock filed Dr. Jules Barefoot’s February 11, 2020 report. He noted the previous two right knee surgeries and the March 14, 2019 work incident. Bowersock reported he fully recovered from the previous 1999 ACL surgery. Dr. Barefoot diagnosed: 1.) 3/14/2019 right knee injury after a fall at work; 2.)

4/5/2019 right knee MRI disclosed prior ACL reconstruction with chronic rupture of the graft, severe osteoarthritis, a tear of the posterior segment of the lateral meniscus; and, 3.) 4/23/19 right knee X-ray disclosed bone-on-bone medial and patellofemoral compartment.

Dr. Barefoot opined the March 14, 2019 work injury caused Bowersock's condition. Dr. Barefoot noted that at the time of the March 14, 2019 accident, Bowersock had no complaints of right knee pain, swelling, or loss of motion, and he was working without restrictions. He further noted that although Bowersock had underlying osteoarthritis in his right knee; it was dormant, asymptomatic, and non-impairment ratable prior to March 14, 2019. Dr. Barefoot opined all of Bowersock's treatment has been reasonable and necessary. He recommended Bowersock undergo an evaluation for consideration of a right total knee arthroplasty. Dr. Barefoot assessed a 20% impairment rating for the right knee pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment, wholly attributable to the March 14, 2019 work accident. Dr. Barefoot recommended restrictions but did not discuss MMI.

Jack Cooper filed Dr. Ellen Ballard's June 15, 2020 report. She noted the March 14, 2019 work accident, and the previous two right knee surgeries. Dr. Ballard noted Bowersock reported having no right knee difficulty prior to his work incident. Dr. Ballard reviewed the medical records and performed an examination. Dr. Ballard diagnosed a history of right knee pain with a two previous knee surgeries and radiographic evidence of bilateral knee tricompartmental osteoarthritis. Dr. Ballard opined Bowersock's condition "was pre-existing and active in nature with an

impairment for chronic deficient ACL and MCL using Table 17-33 of 10%. In addition, for medial meniscectomy a 3%. This is equal to a 13% whole person impairment.”

Dr. Ballard opined the March 14, 2019 work event resulted in only a temporary strain. She found no evidence of a permanent injury based upon her review of the medical records and diagnostic studies. Dr. Ballard opined Bowersock’s current right knee condition is unrelated to the March 14, 2019 work event. She further stated as follows:

5. Please provide your opinion as to whether you feel the work incident of March 14, 2019, was the proximate cause of the bone on bone arthritis in the right knee documented on the MRI and/or whether the work incident hastened/accelerated the arthritic degeneration, permanent exacerbated or aggravated the underlying degenerative changes, or aroused these underlying degenerative changes into a permanent disabling reality.

His work incident was definitely not the cause of his bone-on-bone arthritis. He has this in both knees bilaterally, in addition to the changes seen from his ACL surgery and meniscus surgery previously.

Dr. Ballard opined Bowersock attained MMI from his temporary injury when he last saw Dr. Moore on March 13, 2019¹. Dr. Ballard assessed a 0% impairment rating for the March 14, 2019 right knee injury and declined to recommend permanent restrictions. Dr. Ballard noted that although a total knee replacement could be considered reasonable and appropriate, it is necessitated by his pre-existing condition, not the work event.

Jack Cooper filed the Tennessee Workers' Compensation records stemming from Bowersock's April 2, 1999 work injury. Those records indicate Bowersock sustained a work-related right knee injury on April 2, 1999 while working for Cassens Transport Company as a car hauler, for which he sought permanent disability benefits. Bowersock reported he tore his right ACL by stepping down from the trailer. The claim was settled on December 8, 2000.

A Benefit Review Conference ("BRC") was held on July 8, 2020. The parties stipulated Bowersock sustained a work-related injury on March 14, 2019. They also stipulated Jack Cooper voluntarily paid temporary total disability ("TTD") benefits from March 16, 2019 through October 11, 2019, as well as medical expenses in the amount of \$36,829.00. The parties identified the following contested issues: benefits per KRS 342.730, work-relatedness/causation, unpaid or contested medical expenses, injury as defined by the Act, exclusion for pre-existing disability/impairment, TTD, vocational rehabilitation, and proper AMA rating. At the hearing, MMI was added as a contested issue.

The ALJ found as follows, *verbatim*, in the October 5, 2020 Opinion:

Causation/Work-Relatedness

As a threshold issue, the defendant maintains plaintiff is not carried his burden of proving his current right knee condition and need for right total knee replacement surgery are due to the effects of the March 14, 2019 incident at work. It argues plaintiff suffered, at most, a temporary strain at that time and that the incident did not cause any new or permanent injury. In support of its position, he relies on the opinions of its expert, Dr. Ballard, who examined plaintiff and

¹ We assume this date is a typographical error since the records and parties both indicate Dr. Moore last treated Bowersock on August 13, 2019, and opined he had attained MMI.

reviewed his treatment records and concluded plaintiff suffered no permanent injury at work but, instead, suffered only a temporary right knee strain. It also relies on the opinions of plaintiff's treating physician, Dr. Moore, who explicitly stated that plaintiff's need for right total knee replacement surgery was not due to the work injury.

For his part, plaintiff maintains he fully recovered from his 1999 right knee injury and that he was having no right knee symptoms or limitations immediately prior to March 14, 2019. He also points out right knee replacement surgery had never been recommended prior to the work injury. He relies on his expert, Dr. Barefoot, who explained that the work injury aggravated plaintiff's pre-existing, dormant right knee osteoarthritis into symptomatic and disabling reality to the extent that he now requires right total knee replacement surgery. Plaintiff further argues the defendant's argument on causation must fail because it cannot prove that plaintiff had a pre-existing condition which was both symptomatic and impairment ratable immediately prior to March 14, 2019, citing *Finley v. DBM Technologies*, 217 S.W.3d 261 (Ky. App. 2007).

However, plaintiff's reliance on *Finley* is misplaced in this instance. The *Finley* analysis applies only after it has been determined a claimant suffered a work-related injury and goes to the issue of whether there is any portion of the award to be excluded as a prior, active condition. The *Finley* analysis does not apply to the issue of causation, even though some of the same facts may be relevant to both issues.

Instead, on the threshold issue of causation, the plaintiff still bears the burden of proving this essential element of his claim. *Snawder v. Stice*, 576 S.W.2d 276 (Ky. App. 1979). As applied to this case, the Administrative Law Judge is not persuaded plaintiff has carried that burden in this instance. In reaching this conclusion, the ALJ is fully aware plaintiff was working without any evidence of restrictions prior to March 14, 2019 and that he testified he was having no right knee symptoms prior to that work injury, and that his testimony in this regard is unrefuted. The ALJ also acknowledges Dr. Barefoot's opinion that, against this

backdrop of facts, the March 14, 2019 incident aroused plaintiff's pre-existing, dormant right knee osteoarthritis into symptomatic reality to the point that he cannot now return to work and requires right total knee replacement surgery.

However, in this particular case, the ALJ is, instead, most persuaded by the opinions of plaintiff's treating physician, Dr. Moore, who explicitly stated on multiple occasions in his treatment notes that plaintiff's osteoarthritis and need for right knee total replacement surgery are not due to the March 14, 2019 work incident. The ALJ is further persuaded by Dr. Ballard's explanation that she agreed with Dr. Moore and that plaintiff's medical history, radical examination, and diagnostic studies do not demonstrate any new, permanent injury to the right knee and that, instead, plaintiff suffered only a temporary right knee strain which fully resolved as of the date Dr. Moore placed him at maximum medical improvement, August 13, 2019. Again, Dr. Ballard's opinions in this regard are considered quite persuasive, especially as Dr. Moore also indicated plaintiff will soon require left total knee replacement surgery as well despite the fact that plaintiff has suffered no injury to that knee and has also made no recorded complaints of left knee pain and is not under any restrictions for his left knee.

For these reasons, it is determined plaintiff has not carried his burden of proving he suffered any new, permanent work-related injury to his right knee, and his claim for permanent benefits must, therefore, be dismissed.

TTD Benefits

As it has already been determined plaintiff reached maximum medical improvement as of August 13, 2019 and plaintiff received TTD benefits from the date of injury up to October 11, 2019, plaintiff is not entitled to any additional TTD benefits.

The ALJ dismissed Bowersock's claim for permanent benefits.

Bowersock filed a Petition for Reconsideration essentially raising the same

arguments he now makes on appeal. The ALJ overruled the Petition, stating as follows, *verbatim*:

This matter comes before the Administrative Law Judge pursuant to the plaintiff's petition for reconsideration of the Opinion & Order rendered in this matter on October 5, 2020. In his petition, plaintiff maintains the ALJ committed patent error by determining plaintiff did not suffer a permanent, work-related right knee injury and, accordingly, dismissed plaintiff's claim for permanent benefits.

With respect to plaintiff's argument that the parties stipulated a permanent right knee injury, the ALJ is not persuaded this is accurate or otherwise represents patent error. The parties stipulated only that the alleged injury occurred on March 14, 2019. At most, the defendant stipulated an injurious event occurred on that date; the defendant did not stipulate to an "injury" within the meaning of the "Act) (KRS 342.0011(1)), meaning there was a dispute as to whether plaintiff suffered a permanent or a temporary, knee injury. Indeed, the parties' evidence and the arguments in their briefs demonstrates this claim was practiced with the mutual understanding that the defendant agreed plaintiff suffered a temporary exacerbation of his knee condition, but that it disputed he suffered any new, permanent injury. The plaintiff's petition on this point is therefore overruled.

The remainder of plaintiff's petition is also overruled as merely a reargument of the merits, which have already been decided.

On appeal, Bowersock argues the ALJ's analysis regarding injury and entitlement to medical treatment when a work-related injury causes the aggravation or arousal of an underlying, dormant degenerative condition is flawed. Bowersock asserts the parties stipulated he sustained a work-related injury on March 14, 2019 and Jack Cooper voluntarily paid TTD benefits and medical benefits. Therefore, according to Bowersock, Jack Cooper waived any argument regarding whether he

suffered an injury resulting in disability. Bowersock asserts the March 14, 2019 work injury caused his underlying dormant, pre-existing arthritis to become symptomatic. Bowersock also asserts medical treatment is compensable where work done for the employer contributed to some degree to the condition and the resulting disability. Derr Construction Co. v. Bennett, 873 S.W.2d 824 (Ky. 1994). Bowersock also asserts his underlying osteoarthritis was dormant prior to March 14, 2019. Bowersock points to the opinions of Drs. Moore and Barefoot to assert the work injury aggravated his underlying, dormant osteoarthritis in his right knee. Therefore, Bowersock requests this Board to mandate a finding of a work-related injury consisting of an aggravation of his underlying dormant condition into symptomatic and disabling reality, and order Jack Cooper to authorize the evaluation by a specialist for a right knee replacement as recommended by Dr. Moore.

As the claimant in a workers' compensation proceeding, Bowersock had the burden of proving each of the essential elements of his claim. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Because Bowersock was unsuccessful in his 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).

In rendering a decision, KRS 342.285 grants an ALJ as fact-finder the sole discretion to determine the quality, character, and substance of evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). An ALJ may draw reasonable

inferences from the evidence, 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. Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979); Caudill v. Maloney's Discount Stores, 560 S.W.2d 15 (Ky. 1977). Although a party may note evidence supporting a different outcome than 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). Rather, it must be shown there was no evidence of substantial probative value to support the 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 weight and credibility or by noting reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999). If the ALJ's rulings are reasonable under the evidence, they may not be disturbed on appeal.

Substantial evidence supports the ALJ's determination Bowersock failed to prove he suffered a new, permanent work-related right knee injury due to the March 14, 2019 event, and a contrary result is not compelled. We reject Bowersock's contention that the parties' stipulation he sustained a work-related injury on March 14, 2019, for which Jack Cooper voluntarily paid TTD benefits and medical benefits, compels a finding he suffered a permanent injury resulting in disability.

In the Order on Petition for Reconsideration, the ALJ determined Jack Cooper only stipulated an injurious event occurred on March 14, 2019. We agree

with this determination. While the parties stipulated Bowersock sustained a work-related injury on March 14, 2019, several contested issues were listed. 803 KAR 25:010 § 13(14) provides only those issues preserved at the BRC for determination by the ALJ “shall be the subject of further proceedings.” At the BRC, the parties identified benefits per KRS 342.730, work-relatedness/causation, unpaid or contested medical expenses, “injury” as defined by the act, exclusion for pre-existing disability/impairment, TTD, vocational rehabilitation, and proper AMA rating as contested issues for determination by the ALJ. Based upon the issues identified at the BRC and evidence filed into the record, the determination of whether Bowersock sustained an injury as defined by the Act, including temporary versus permanent injury, causation, and entitlement to benefits were properly preserved for determination by the ALJ. We further decline to interpret Jack Cooper’s voluntary payment of TTD benefits and medical benefits prior to the filing of this claim as evidence of a compensable, permanent injury.

With that said, substantial evidence supports the ALJ’s determination that Bowersock did not sustain a permanent right knee injury due to the March 14, 2019 work event, and a contrary result is not compelled. Conflicting opinions exist in the record regarding whether Bowersock sustained a permanent or temporary injury due to the March 14, 2019 work event. Dr. Barefoot opined Bowersock sustained a permanent injury while Dr. Ballard opined he sustained a temporary injury. Dr. Moore opined the work event aggravated Bowersock’s osteoarthritis and he retained a permanent partial impairment for the aggravation of his underlying osteoarthritis. He also opined Bowersock’s underlying osteoarthritis and need for a

right total knee arthroplasty was not due to his work-related injury. We note the ALJ did not solely rely upon Dr. Moore. The ALJ properly exercised his discretion in finding Dr. Ballard's opinion most persuasive that Bowersock did not sustained a new, permanent right knee injury, and instead suffered only a temporary right knee strain, which fully resolved as of the date Dr. Moore placed him at MMI on August 13, 2019. Bowersock did not argue Dr. Ballard's opinions are unsubstantial or flawed in his Petition for Reconsideration or on appeal to this Board. Dr. Ballard's opinion constitutes substantial evidence and a contrary result is not compelled.

However, we note that since the rendition of Robertson v. United Parcel Service, supra, 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.

The ALJ determined Bowersock sustained a temporary right knee injury, which had fully resolved as of the date Dr. Moore placed him at MMI on August 13, 2019 in accordance with Robertson v. United Parcel Service, *supra*. We affirm this determination. The ALJ also determined Bowersock is not entitled to additional TTD benefits for his temporary injury, and this determination is supported by the evidence. However, the ALJ failed to address Bowersock's entitlement, if any, to medical benefits for his temporary injury in accordance Robertson v. United Parcel Service, *supra*. Therefore, on remand, the ALJ is directed to address Bowersock's entitlement to medical benefits for his temporary right knee injury. We do not direct any result, and the ALJ may make any determination supported by the evidence.

Accordingly, the October 5, 2020 Opinion and Order and the October 28, 2020 Order on Petition for Reconsideration by Hon. Grant S. Roark, Administrative Law Judge, are hereby **AFFIRMED IN PART**. This claim is **VACATED IN PART and REMANDED** to the ALJ to address whether Bowersock is entitled to medical benefits for his temporary right knee injury.

ALL CONCUR.

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