2025 IL App (2d) 240544WC-U
No. 2-24-0544WC
Order filed June 4, 2025

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

Workers' Compensation Commission Division

THE FOREST PRESERVE OF Du PAGE COUNTY,	)	Appeal from the Circuit Court of Kane County
Appellant,	)	No. 24MR76
v.	)	
THE ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al.*,	)	Honorable Kevin T. Busch,
(Dale Craine, Appellee).	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.

Presiding Justice Holdridge and Justices Hoffman, Mullen, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: (1) By finding that claimant's condition was causally connected to the work-related accident, the Illinois Workers' Compensation Commission (Commission) did not make a finding that was against the manifest weight of the evidence. (2) By awarding medical expenses and prospective medical treatment to claimant, the Commission did not make a decision that was against the manifest weight of the evidence.

¶ 2 The Forest Preserve of Du Page County (Forest Preserve) appeals the judgment of the Kane County circuit court confirming an award of workers' compensation benefits to claimant, Dale

Craine. Because we conclude that the decision of the Illinois Workers' Compensation Commission (Commission) is not against the manifest weight of the evidence, we affirm the circuit court's judgment confirming the Commission's decision, and we remand this case to the Commission for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980).

¶ 3 I. BACKGROUND

¶ 4 Claimant was employed by the Forest Preserve as a maintenance worker. On August 13, 2018, in the course of his employment, he was filling in tree rings with mulch. He went across the street to get some mulch out of a dump truck. He climbed up onto the truck and moved some tools. When climbing back down, he slipped and caught hold of the truck to keep himself from falling, and he felt a pop and a burning sensation in his right shoulder.

¶ 5 After notifying his supervisor of the injury, claimant went to the emergency room of Central Du Page Hospital. A couple of days later, he went to Hines VA Hospital (Hines). At Hines, Dr. Alexander Kedzierski ordered an X-ray, which showed no dislocation of the shoulder. Nevertheless, Dr. Kedzierski recommended an MRI and consultation with an orthopedic physician.

¶ 6 On August 21, 2018, claimant underwent an MRI of his right shoulder. Dr. Mukarram Sheikh interpreted the MRI as revealing a possible myotendinous tear of the pectoralis major muscle and moderate rotator cuff tendinosis but no full thickness rotator cuff tear.

¶ 7 On September 5, 2018, Dr. Daniel Schmitt of Hines Orthopedic Clinic examined claimant. Noting that the MRI revealed a possible partial myotendinous tear of the right pectoralis major, Dr. Schmitt recommended physical therapy as a conservative measure. He suggested that if physical therapy proved insufficient, claimant might need surgery.

¶ 8 On September 10, 2018, claimant underwent an independent medical examination by Dr. Nikhil Verma of Midwest Orthopaedics at Rush. In addition to physically examining claimant and obtaining from him an account of the accident, Dr. Verma reviewed the MRI films from August 21, 2018. According to Dr. Verma, these films revealed rotator cuff tendinosis, subscapularis tendinosis, moderate glenohumeral osteoarthritis, and a possible right shoulder pectoralis injury with an intrasubstance subscapularis tear and biceps subluxation. He recommended an MRI of the pectoralis and chest wall.

¶ 9 On September 18, 2018, claimant underwent a second MRI at Hines, this time of the chest. Dr. Gholami Afshang interpreted this MRI as revealing a poorly defined partial width tear of the right pectoralis major with surrounding edema.

¶ 10 On September 28, 2018, in accordance with Dr. Schmitt's recommendation, claimant began occupational therapy at Hines.

¶ 11 On October 13, 2018, claimant consulted an orthopedic surgeon, Dr. Stephen J. Wallace, who diagnosed a tear of the right partial pectoralis major. He recommended further physical therapy and a reevaluation in two months.

¶ 12 On January 8, 2019, at the Forest Preserve's request, Dr. Verma performed a medical records review. He diagnosed an upper border partial musculotendinous tear of the subscapularis. In Dr. Verma's assessment at that time, the treatment options were twofold: (1) a platelet-rich plasma injection, followed by six weeks of physical therapy at a frequency of three sessions per week, and (2) if claimant remained significantly symptomatic after this regimen of physical therapy, surgical exploration of the tear site and primary repair.

¶ 13 On February 4, 2019, frustrated that treatment at Hines had failed to alleviate his symptoms, claimant chose to be a patient of Dr. Verma instead of a subject for his independent

medical evaluation. Dr. Verma was still of the opinion that claimant had a partial tear of the pectoralis major tendon. He recommended another MRI to obtain a clearer image of the pectoralis tendon.

¶ 14 On February 11, 2019, at Midwest Orthopaedics at Rush, claimant underwent a second MRI of his right chest. Dr. John Meyer interpreted this MRI as showing (1) a minimal strain of the pectoralis major muscle with no evidence of tendon retraction or rupture and (2) a small joint effusion within the right sternoclavicular joint with subchondral edema, a condition that was most likely degenerative.

¶ 15 On February 20, 2019, claimant began receiving treatment from Dr. Kevin Sonn, a resident in orthopedic surgery at Hines. Dr. Sonn advised him that, for a partial pectoralis tendon tear, surgery could do nothing. Recovery time from this type of injury varied, Dr. Sonn said, depending on the nature of the work to which claimant returned. Dr. Sonn suggested it would be reasonable for claimant to continue with physical therapy.

¶ 16 On February 22, 2019, claimant returned to Dr. Verma. After reviewing the most recent MRI, Dr. Verma now diagnosed a minimal strain of the pectoralis muscle with no evidence of chronic tendon disruption. Even though claimant continued to complain of pain over the anterior aspect of his shoulder, Dr. Verma could find no obvious anatomical deformity. Thus, he saw no need for surgery. He recommended that claimant go to Hines for further treatment recommendations. He did not think he could do anything more for claimant.

¶ 17 For the next two years, claimant received no further treatment for the work-related injury. Then, on February 26, 2021, he consulted Dr. Ryan Pizinger at Illinois Orthopedic Institute. Claimant complained to him of pain that was a 6 out of 10: a constant and aching pain that became more severe when he lifted his right arm. On the date of his physical examination of claimant, Dr.

Pizinger saw no indication that the pectoralis had suffered a significant rupture. He thought it was likely, though, that claimant had a musculotendinous injury. He doubted that the shoulder was the primary problem. He suspected that, instead, claimant had a superior labrum anterior and posterior (SLAP) tear and a supraspinatus and subscapularis tear. He recommended an MR arthrogram of the right shoulder.

¶ 18 On March 18, 2021, claimant underwent an MR arthogram, which revealed (1) a partial tear of the inferior surface of the supraspinatus at the distal insertion and (2) a partial tear of the anterior aspect of the infraspinatus tendon.

¶ 19 On March 26, 2021, claimant had a follow-up appointment with Dr. Pizinger, who reviewed the images from the MRIs of August 2018 and November 2020, as well as the images from the MR arthrogram of March 18, 2021. (Outside Dr. Pizinger's testimony and the Commission's decision, the record does not appear to contain any reference to an MRI taken in November 2020.)

¶ 20 Dr. Pizinger interpreted the MRI from August 2018 as showing a "partial tearing of the superior subscapularis" and a "complex tearing of the superior labral tissue." He further observed from this MRI that "[t]he joint [was] reduced" and that "[t]here [were] signs of glenoid bone bruising along its central to inferior portion mainly along the posterior aspect consistent with his described injury." He saw no sign of muscle atrophy in this MRI, but there was a "partial articular-sided tearing of the supraspinatus and infraspinatus junction." Also, he saw "moderate AC arthropathy."

¶ 21 According to Dr. Pizinger, the images from November 2020 and the recent MR arthrogram "[did] not show any significant differences" or any "new injuries." He opined, however, that the MR arthrogram showed progressions in the tearing of tissue. He wrote:

"The current imaging does show progression of the subscapularis tear where it has become more obvious along the superior aspect. There is no significant retraction of tissue. The lower half of the subscapularis is intact. The biceps tendon is intact and torn in the superior labral tissue. There is also slight subluxation as it enters the top of the groove. There is progression of the partial articular-sided tearing at the supraspinatus and infraspinatus junction. There is still moderate AC arthropathy. The joint is reduced. The bone bruising is resolved. There is no muscle atrophy."

¶ 22 Dr. Pizinger summed up his impressions as follows:

"This is a 50-year-old male returning in follow up for MRI review of his right shoulder. At this point, the imaging just after his injury as well as the current imaging shows the exact same injury pattern and findings consistent with his described injury at work. I do find that the diagnosis is causally related to the injury that happened in 2018 ***. Diagnoses at this point are rotator cuff tearing of the subscapularis, supraspinatus, and infraspinatus tendons along with SLAP tear."

¶ 23 Because of the "failure of conservative care," Dr. Pizinger recommended surgery "in the form of a right shoulder arthroscopic debridement with subacromial decompression, biceps tenodesis, rotator cuff repair of the subscapularis and supraspinatus and infraspinatus tendons."

¶ 24 On October 15, 2021, claimant underwent another independent medical examination, this time by Dr. Hythem Shadid, an orthopedic surgeon. After physically examining claimant and reviewing his medical records, Dr. Shadid diagnosed (1) right shoulder glenohumeral joint arthritis and (2) right shoulder degenerative right rotator cuff tendinopathy. In Dr. Shadid's opinion, those conditions represented the natural progression of a degenerative condition unrelated to the accident of August 13, 2018. He noted, "The degenerative changes in the rotator cuff that are seen on the

current MRI were not seen on the MRI as of 2018." In Dr. Shadid's view, claimant's subjective complaint of pain at an intensity of 9 out of 10 was inconsistent with the objective findings of rotator cuff tendinopathy and an arthritic glenohumeral joint. Given what Dr. Shadid regarded as a purely degenerative condition, he opined that the surgery that Dr. Pizinger had recommended—subacromial decompression, biceps tenodesis, and rotator cuff repair—was medically unnecessary and would be causally unrelated to the accident of August 13, 2018.

¶ 25 In its decision of February 9, 2024, the Commission chose to believe Dr. Pizinger over Dr. Shadid and Dr. Verma. "[I]t is well documented," the Commission explained, "that the earlier imaging of the [claimant's] shoulder was less than clear, suggesting that the films reviewed by Dr. Verma in 2018 failed to provide the best look at the injuries sustained." Claimant had testified that only the final study, taken in March 2021, was an MR arthrogram. The only physician who had reviewed this MR arthrogram was Dr. Pizinger. Although Dr. Shadid had reviewed claimant's medical records, including other physicians' interpretations of the MRI films, Dr. Shadid admitted, in his deposition, that he had not reviewed the MRI films themselves. Dr. Shadid explained that although, in preparing for a surgery, he typically reviewed the MRI films to help him decide where to place the sutures, reviewing the films for diagnostic purposes was, as he put it, "not as critical." However, when asked how often in his practice he made a diagnosis without personally reviewing an MRI film, Dr. Shadid answered, "It's not very often. But does it happen? It does happen at times when a patient can't bring the MRI, you know, images."

¶ 26 Because Dr. Shadid had not reviewed the MRI films, and because Dr. Verma had not reviewed the films from the MR arthrogram, the Commission concluded that the opinions of Dr. Pizinger were more credible than those of Dr. Shadid and Dr. Verma. Therefore, the Commission found that "the [claimant's] current right shoulder condition, for which Dr. Pizinger has

recommended surgical intervention, [was] causally related to the [claimant's] accident of August 13, 2018."

¶ 27 The next issue was whether the medical services that claimant had received were reasonable and necessary. In the trial stipulation sheet, claimant had listed the following medical bills: (1) $3,274 from Midwest Orthopaedics at Rush, (2) $477 from Illinois Orthopaedic Institute, (3) $4,000 from Oak Brook Imaging, and (4) $21,481.51 from Hines. The Commission found that those bills were causally related to the accident, Accordingly, the Commission ordered the Forest Preserve to pay those bills if it had not already done so.

¶ 28 Claimant's entitlement to prospective medical treatment was also in dispute. Having found a causal relationship between claimant's right shoulder condition and the accident of August 13, 2018, the Commission ordered the Forest Preserve to "authorize the prospective medical treatment Dr. Pizinger ha[d] prescribed[,] including surgery and post-operative care."

¶ 29 Finally, the Commission ordered the Forest Preserve to pay claimant temporary total disability benefits in the amount of $499.11 per week for 32 weeks (August 14, 2018, through March 25, 2019), subject to a credit for $15,619.52 in temporary total disability benefits that the Forest Preserve already had paid.

¶ 30 Finally, pursuant to *Thomas*, the Commission remanded the case to the arbitrator for further proceedings to determine "a further amount of temporary total compensation or of compensation for permanent disability, if any."

¶ 31 On February 23, 2024, the Forest Preserve sought review in the circuit court.

¶ 32 On August 19, 2024, finding that the issues in the case were solely factual in nature, the circuit court concluded that the Commission's decision was not against the manifest weight of the evidence. Therefore, the court confirmed the Commission's decision.

¶ 33 This appeal followed.

¶ 34 II. ANALYSIS

¶ 35 The Forest Preserve raises two issues in this appeal. First, by finding that claimant's condition was causally connected to the work-related accident, did the Commission make a finding that was against the manifest weight of the evidence? Second, by awarding medical expenses and prospective medical treatment to claimant, did the Commission make a decision that was against the manifest weight of the evidence?

¶ 36 A. Causality

¶ 37 The Forest Preserve contends that by finding, in reliance on Dr. Pizinger's opinion, that claimant had a work-related SLAP tear, the Commission made a finding that was against the manifest weight of the evidence. The Forest Preserve gives two reasons for this contention.

¶ 38 First, the Forest Preserve notes that "at least 7 medical professionals, most of whom treated [claimant] contemporaneously with the accident"—namely, Dr. Schmitt, Dr. Kedzierski, Dr. Wallace, Dr. Verma, Dr. Sonn, Dr. Sheikh, and Dr. Afshang—found no SLAP tear.

¶ 39 Even so, it does not follow that those seven physicians were manifestly correct and that Dr. Pizinger was manifestly incorrect. The question is not who produced the greater number of expert witnesses. See *Cinch Manufacturing Corp. v. Industrial Comm'n*, 393 Ill. 131, 134 (1946); *Field v. Illinois Workers' Compensation Comm'n*, 2022 IL App (5th) 210301WC-U, ¶ 52. Instead, the question is whether the Commission's finding of a work-related SLAP tear is against the manifest weight of the evidence. See *Beattie v. Industrial Comm'n*, 276 Ill. App. 3d 446, 449 (1995). This question calls for the application of a deferential standard of review. See *Material Service Corp. v. Industrial Comm'n*, 97 Ill. 2d 382, 387 (1983). Just because a given view of the evidence has a greater number of expert proponents, it does not necessarily follow that every reasonable person,

for that simple reason, would assign greater weight to that view. See *Nielson v. SwedishAmerican Hospital*, 2017 IL App (2d) 160743, ¶ 28 ("A decision is against the manifest weight of the evidence if it is unreasonable, arbitrary, or not based upon the evidence."). In some cases, it might be reasonably defensible to accept the minority view.

¶ 40 Even if we ourselves, had we been the trier of fact, would have credited the opinions of the other seven physicians over the opinions of Dr. Pizinger, that would not be a sufficient reason for us to overturn the Commission's decision. See *Beattie*, 276 Ill. App. 3d at 449. Rather, we can justifiably overturn the Commission's decision only if the record clearly and indisputably requires a finding that a work-related SLAP tear was unproven. See *id.* As we observed recently, "it is the province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign the weight to be accorded the evidence and draw reasonable inferences from the evidence," and "[t]he Commission's expertise in medical matters is well recognized and entitled to great deference." (Internal quotation marks omitted.) *O'Reilly Auto Parts v. Illinois Workers' Compensation Comm'n*, 2025 IL App (1st) 231999WC-U, ¶ 56.

¶ 41 We cannot say that the Commission's finding of a work-related SLAP tear is unreasonable or arbitrary. As claimant argues, it was within the range of reasonableness for the Commission to conclude that Dr. Pizinger had an advantage over the seven other physicians in that Dr. Pizinger had an MR arthrogram, which they lacked. Unlike the seven other physicians, Dr. Pizinger could interpret the previous MRI films in the light of the MR arthrogram.

¶ 42 The second reason why, in the Forest Preserve's view, the Commission's finding of a work-related SLAP tear is against the manifest weight of the evidence is that "Dr. Shadid is more compelling than Dr. Pizinger." The Forest Preserve argues that "Dr. Shadid's opinion is based off substantially more experience and expertise in treating right shoulder injuries." The Forest

Preserve criticizes Dr. Pizinger for "diagnos[ing] a causally related SLAP tear without examining [claimant's] prior treatment records or [claimant's] prior MRI films." The Forest Preserve continues, "At no point did Dr. Pizinger review [claimant's] prior films and assess whether [claimant's] shoulder condition had changed or whether the SLAP tear was evidenced by anything other than an MRA performed 3 years after the initial injury."

¶ 43 In the office note that Dr. Pizinger signed on March 30, 2021, however, he wrote that "[m]ultiple images are examined today," specifically, "images from August 2018," "[i]mages from November 2020," and "the most recent MRI from March 2021." It appears, therefore, that, contrary to the Forest Preserve's assertion, Dr. Pizinger reviewed the prior films. In comparing the prior and current films, Dr. Pizinger found no "significant differences and no new injuries," but he found a "progression of the subscapularis tear where it ha[d] become more obvious along the superior aspect." Also, he found a "progression of the partial articular-sided tearing at the supraspinatus and infraspinatus junction." So, Dr. Pizinger reviewed not only the MR arthrogram but also the MRI films from 2018 and 2020, and he interpreted these past and present films as showing work-related tissue damage that had progressed.

¶ 44 Granted, Dr. Shadid opined that claimant had merely a degenerative condition unrelated to the accident of August 13, 2018. Because Dr. Shadid, however, had reviewed no films, the Commission had an arguably legitimate reason for disbelieving his opinion. It is not our function, but, rather, it is the Commission's function, "to resolve disputed questions of fact, including those of causal connection, to draw permissible inferences[,] and to decide which of conflicting medical views is to be accepted." *Material Service Corp.*, 97 Ill. 2d at 387. In cases in which the medical opinions are in conflict, "the Commission's determination is given substantial deference and will be upheld unless it is contrary to the manifest weight of the evidence." *Id.* The Commission's

determination that claimant sustained a SLAP tear when grabbing hold of the truck to keep himself from falling is not against the manifest weight of the evidence. Thus, we defer to that factual determination.

¶ 45 B. Prospective and Future Medical Treatment

¶ 46 Under section 8(a) of the Workers' Compensation Act (820 ILCS 305/8(a) (West 2018)), "a claimant is entitled to recover reasonable medical expenses, the incurrence of which are causally related to an accident arising out of and in the scope of her employment and which are necessary to diagnose, relieve, or cure the effects of the claimant's injury." *Absolute Cleaning/SVMBL v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 463, 470 (2011). The Forest Preserve argues that by awarding past and prospective medical treatment, the Commission made a decision that was against the manifest weight of the evidence because claimant reached maximum medical improvement on March 14, 2019, when he was discharged from physical therapy and reported beginning a new job. According to the Forst Preserve, Dr. Shadid's opinion that claimant had reached maximum medical improvement is "compelling."

¶ 47 It is not our place, though, to decide whose testimony is compelling and whose testimony is less than compelling. Instead, under the deferential standard of review applicable to the factual issues of the reasonableness and necessity of medical treatment (see *Calderon v. Illinois Workers' Compensation Comm'n*, 2025 IL App (2d) 230303WC-U, ¶ 44), we ask whether it is "clearly apparent" that claimant reached maximum medical improvement on March 14, 2019 (*Schafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 35). To be sure, Dr. Shadid opined that claimant had reached maximum medical improvement, but Dr. Pizinger had a different opinion. Dr. Pizinger opined that since conservative measures had failed, claimant needed surgery to repair the SLAP tear he sustained in the work-related accident. Thus, while it is

arguable, from Dr. Shadid's opinion, that claimant "has recovered as much as the character of the injury will permit," it is not *clearly apparent* that he has done so—for Dr. Pizinger, who could be believed, testified that claimant could benefit from surgery. *Mechanical Devices v. Industrial Comm'n*, 344 Ill. App. 3d 752, 760 (2003). Therefore, the award of past and prospective medical treatment is not against the manifest weight of the evidence.

¶ 48 III. CONCLUSION

¶ 49 For the foregoing reasons, we affirm the circuit court's judgment, which confirmed the Commission's decision, and we remand the case to the Commission for further proceedings pursuant to *Thomas*.

¶ 50 Affirmed and remanded.