COURT OF APPEALS OF VIRGINIA

Record No. 1598-25-2

BROOKE A. ROBINSON
v.
HANOVER COUNTY PUBLIC SCHOOLS, ET AL.

Present: Chief Judge Decker, Judge Raphael and Senior Judge Humphreys

Opinion Issued October 27, 2026[*]

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Seth Raven Carroll; Commonwealth Law Group, PLLC, on briefs), for appellant.

(A. Jacob Perkinson; Jonathan Hummer; Whitt, Del Bueno, Clark, Perkinson, on brief), for appellee.

MEMORANDUM OPINION
PER CURIAM

Brooke A. Robinson appeals the denial by the Workers' Compensation Commission of her claims for temporary total disability benefits and medical benefits. Robinson argues that the evidence proved that she suffered a compensable injury on November 22, 2022, that was exacerbated by a second compensable injury on January 13, 2023. She also challenges the Commission's finding that parts of her medical treatment were not causally related to the accidents. Because the record supports the Commission's factual findings, we affirm.[1]

[*] This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because "the appeal is wholly without merit." *See* Code § 17.1-403(ii)(a); Rule 5A:27(a).

BACKGROUND[2]

A. The November 2022 accident

Robinson worked as a positive-behavior-support coach and interventionist for Hanover County Public Schools. On November 22, 2022, Robinson assisted a child who was "hitting, kicking, [and] flailing all around" on the floor. When Robinson tried to help the child up, they both fell to the floor. Afterward, Robinson felt pain in her pubic bone, pelvic bone, groin area, and lower back. She continued working that day but with "significant difficulty."

Between November 24 and November 28, 2022, Robinson sought treatment from several healthcare providers for her back and pelvis pain. On November 29, Robinson saw Family Nurse Practitioner ("FNP") Stacy Jones at Harness Health Partners. Robinson reported "right sided lower back pain that radiate[d] down [her] right hip and leg." FNP Jones diagnosed Robinson with nerve irritation in the lumbar region and recommended physical therapy. The next day, Robinson returned to work with restrictions on standing and running.

B. The January 2023 accident and medical treatment

On January 13, 2023, Robinson and another school counselor were notified that two preschool children had run from the school building. The counselors went outside and found the children in the neighborhood next to the school. Both Robinson and her colleague ran after the children, even though Robinson said she was "technically not supposed to run." The second counselor assisted one child and Robinson helped the other. Robinson held the child's hand, but he tried to break free. Robinson sat down and held the child on her lap, but the child was "flailing and trying to get out." The child then sat "crisscross" on her lap as Robinson restrained

[2] We recite the facts in the light most favorable to Hanover, the party that prevailed before the Commission. *City of Charlottesville v. Sclafani*, 300 Va. 212, 223 (2021).

his wrists. As Robinson walked the child back to the school, he tried to pull away. And upon reaching the school, the child jumped down the steps, pulling Robinson's arm.

After returning the child to his classroom, Robinson told the other counselor that she needed medical attention. She "hobbled to the nurse," walking with difficulty due to pain in her pelvis, lower back, hip, and groin. Robinson saw FNP Jones that same day, reporting that she had reinjured her pelvic area and lower back. FNP Jones diagnosed Robinson with lower back and pelvic pain.

Robinson followed up with FNP Jones on January 26, 2023, undergoing an MRI. The MRI revealed a "moderate midline disc protrusion" in her lumbar spine at the L4-L5 area, and a small "disc protrusion" at L5-S1. The MRI also showed possible "abnormalities" in both hip joints. FNP Jones referred Robinson to an orthopedist.

Robinson saw Dr. Abilio Reis at OrthoVirginia on February 23, 2023. Dr. Reis reviewed the MRI results and diagnosed a lumbar disc herniation at L4-L5. He prescribed medication and imposed work restrictions.

On March 21, 2023, Dr. Kwadwo Owusu-Akyaw saw Robinson at OrthoVirginia for bilateral hip pain. Dr. Owusu-Akyaw's notes said that Robinson "sustained injury November 2022 secondary to a work injury" and that she "had a worsening exacerbation of pain in January 2023." Robinson reported that her physical therapy did not provide "adequate improvement." After a second MRI of Robinson's hip, Dr. Owusu-Akyaw diagnosed her with bilateral labral tears and bilateral hip impingement syndrome.

Robinson followed up with Dr. Reis on April 6, 2023. Her symptoms reportedly improved with steroids and physical therapy. Robinson opted to continue with home exercise and medication, with the prospect of surgery if the symptoms did not improve. Dr. Reis opined that Robinson could eliminate work restrictions over the next month.

Two weeks later, Robinson saw Dr. Owusu-Akyaw again. Because Robinson said that her hip pain had not improved with physical therapy, Dr. Owusu-Akyaw performed a right-hip arthroscopy with labral repair on June 26, 2023. He opined that the labral tears were "related to the injury" and that "there was evidence of traumatic hematoma . . . consistent with an acute traumatic injury." Although he could not determine "the exact time frame of the tear," he concluded that her reported pain was "consistent with the tear being the result of the work injury."

During a follow-up appointment in August 2023, Robinson told Dr. Owusu-Akyaw that she was experiencing pain in her left hip. MRI findings confirmed a left-hip labral tear and pinching of the hip joint. Dr. Owusu-Akyaw performed a left-hip arthroscopy with labral repair. On a medical questionnaire, Dr. Owusu-Akyaw repeated his opinion that the medical treatment for Robinson's hips was causally related to the work accidents in November 2022 and January 2023. As for Robinson's lower back pain, Dr. Owusu-Akyaw provided the same finding but noted that "[f]urther detail regarding the back should be deferred to her spine provider."

Robinson sought treatment from Dr. Reis again in October 2023; she complained of low back pain with "tingling" in her left thigh and in her left big toe. Dr. Reis recommended that Robinson continue with physical therapy to recover from the hip surgeries. Dr. Reis also completed a medical questionnaire and agreed that Robinson's low back treatment was causally related to the November 2022 work accident, which was exacerbated by the January 2023 work accident.

On January 5, 2024, Robinson reported to Dr. Reis that her symptoms were improving. But a few weeks later, Robinson sought treatment at the Henrico Doctors' Hospital Emergency Room for pain—a "catching sensation" in her left hip, and a "burning sensation" in her thigh.

Robinson followed up with Dr. Owusu-Akyaw on January 30, 2024, and he ordered a lumbar MRI that showed no changes.

Robinson saw Dr. Reis again in February 2024; she complained of leg and groin pain, inflammation, and swelling. Dr. Reis determined that her symptoms were unrelated to her lower back. Dr. Reis's notes stated that Robinson's spine remained the same since her MRI in March 2023, and he had not "much to offer her other than referrals" to other providers or "an epidural steroid injection."

On March 5, 2024, Robinson sought treatment from Dr. Nadeem A. Khan at Interventional Pain and Spine Specialists. Robinson told Dr. Khan that her pain began during the November 2022 accident. Dr. Khan assessed that Robinson had a bulging disc at L4-5 and L5-S1, nerve symptoms on both sides of the lower back at L5-S1, residual pain from her hip joint tears, and inflammation of pelvic joints. Dr. Khan prescribed medication and a steroid injection, which Robinson received on March 20, 2024.

C. Proceedings before the Workers' Compensation Commission

Robinson filed two claims for benefits with the Commission against "Hanover County Schools." Robinson requested temporary total disability beginning June 26, 2023, partial disability benefits from January 2023 through June 2023 and from July 2023 through August 2023, and permanent partial disability benefits. Robinson claimed that she injured her pubic bone, pelvic area, lower back, and bilateral hips in the November 2022 accident. She also alleged that the January 2023 accident exacerbated her injuries.

Dr. William Grant, an orthopedic surgeon, conducted an independent medical evaluation of Robinson and reviewed her medical records. Dr. Grant concluded "with a high degree of medical certainty" that the events in November 2022 and January 2023 did not cause "the chronic degenerative tears of [the cartilage in] both hips" because "neither incident caused a

mechanical or structural change in her hips." Dr. Grant found that only Robinson's right hip developed a temporary exacerbation of groin pain on January 13, 2023.

As for Robinson's back, Dr. Grant opined that she suffered Grade 1 Lumbar strain syndrome and disc protrusions but did not think either was related to the November 2022 incident. Dr. Grant concluded that the protrusions were associated with chronic deterioration and that it was "more probable than not that Ms. Robinson sustained an exacerbation of a pre-existing lumbar disc protrusion." Dr. Grant determined that Robinson's disc herniations were "small" and "without evidence of associated compromise." He later opined that Robinson's complaints of pain were related to non-musculoskeletal stress within her work and home environments.

Dr. Owusu-Akyaw disagreed with Dr. Grant's report; he believed that "the average patient with an untreated labral tear is able to perform basic functions such as rising from a seated" position. Dr. Owusu-Akyaw noted that Dr. Grant's evaluation was limited to still images and that Robinson did not have a history of hip pain before her November 2022 accident.

Dr. Reis issued a narrative opinion letter and stated that Robinson "sustained a small herniated disc at L4-5 most likely due in whole or in part to the November 2022 work accident. Her symptoms from the herniation at L4-5 resolved on their own sometime after April 6, 2023 and before the office visit on October 25, 2023." Dr. Reis disagreed with Dr. Khan's medical report and found there was not a significant extruded disc. He concluded that the "disc herniation is chronic . . . not causing symptoms and unrelated to either work accident." Dr. Reis opined that Robinson's complaints did not "fit any orthopedic pattern" and did not "relate her symptoms to either work accident." The parties stipulated that Robinson suffered compensable

injuries to the "lumbar/low back soft tissue" and "lumbar spine (L4-5)," as well as an exacerbation of pelvic joint pain from the November 2022 accident.[3]

Deputy Commissioner Hunter held an evidentiary hearing on August 7, 2024. Robinson testified that after the November 2022 accident, she felt pubic pain as if her pubic bone had "shifted." Robinson claimed that the November 2022 injury left her "very limited in [her] ability to walk" and caused pain in her lower back, pelvic area, and groin. She explained that she considered her groin and pelvis "all a part of the hip area as well." She described her symptoms as "continuous" and varied based on activity level. She said that the January 2023 accident worsened her symptoms.

Deputy Commissioner Hunter denied Robinson's bilateral hip injury claim but awarded her temporary total disability benefits for the disc protrusion. Hunter also rejected Robinson's claim for the January 2023 accident after determining that she had failed to prove that any exacerbation resulted from a "single causative event." Both parties requested review by the full Commission.

The Commission found insufficient evidence that Robinson suffered any compensable injury (beyond the stipulated injuries) from the November 2022 accident. The Commission credited Dr. Reis's opinion that the disc herniation was chronic and unrelated to the work accident. The Commission also accepted Dr. Reis's opinion that the symptoms Dr. Khan treated were not causally related to the accident.

The Commission also affirmed Hunter's finding that Robinson failed to prove a compensable injury in January 2023. The Commission held that although the medical opinions related Robinson's conditions to the accident, there was no evidence of which specific event or

[3] The parties also stipulated that Robinson was totally disabled during specific times in 2023.

incident injured Robinson. Robinson noted a timely appeal naming as respondents "Hanover County Public Schools" and Virginia Risk Sharing Association (collectively "Hanover").

ANALYSIS

An award of the Commission is "conclusive and binding as to all questions of fact." Code § 65.2-706(A). But "the [C]ommission's legal determinations are not binding on appeal and will be reviewed *de novo*." *Wainwright v. Newport News Shipbuilding & Dry Dock Co.*, 50 Va. App. 421, 430 (2007); *see also* Code § 2.2-4027 ("The duty of the court with respect to the issues of law shall be to review the agency decision de novo."). Our review of the Commission's factual findings is "severely limited, partly in deference to the agency's expertise in a specialized field." *Roske v. Culbertson Co.*, 62 Va. App. 512, 517 (2013) (quoting *Southside Va. Training Ctr. v. Ellis*, 33 Va. App. 824, 828 (2000)).

"Consequently, on appeal, 'we do not retry the facts before the Commission nor do we review the weight, preponderance of the evidence, or the credibility of witnesses.'" *Jeffreys v. Uninsured Emp.'s Fund*, 297 Va. 82, 87 (2019) (quoting *Caskey v. Dan River Mills, Inc.*, 225 Va. 405, 411 (1983)). Instead, "we are bound by the [C]ommission's findings of fact as long as 'there was credible evidence presented such that a reasonable mind *could* conclude that the fact in issue was proved,' even if there is evidence in the record that would support a contrary finding." *Artis v. Ottenberg's Bakers, Inc.*, 45 Va. App. 72, 83-84 (2005) (quoting *Westmoreland Coal Co. v. Campbell*, 7 Va. App. 217, 222 (1988)). The "[C]ommission's determination regarding causation is a finding of fact." *Lee Cnty. Sch. Bd. v. Miller*, 38 Va. App. 253, 260 (2002).

A. The Commission did not err in finding that Robinson failed to prove that the November 2022 accident caused her bilateral hip injuries.

A claimant bears the burden of proving by a preponderance of the evidence that the work-related accident caused the injury for which compensation is sought. *Hoffman v. Carter*,

50 Va. App. 199, 214 (2007). "Causation is usually proven by medical evidence." *Clinch Valley Med. Ctr. v. Hayes*, 34 Va. App. 183, 192 (2000). Viewing the evidence in the light most favorable to Hanover—the prevailing party before the Commission—the record supports the Commission's finding that Robinson did not prove that her work-related accident in November 2022 caused her bilateral hip injuries.

Dr. Grant opined that Robinson did not exhibit any signs or symptoms of bilateral hip injuries between November 22, 2022 and January 13, 2023. Dr. Grant explained that Robinson's bilateral hip labral tears appeared to be chronic. This credible medical evidence supported the Commission's finding, so we are bound by it.

We also reject Robinson's argument that Dr. Owusu-Akyaw's opinion should be entitled to greater weight. "The opinion of the treating physician is entitled to great weight, although the [C]ommission is not required to accept it." *United Airlines, Inc. v. Hayes*, 58 Va. App. 220, 238 (2011). "A question raised by conflicting medical opinion is a question of fact." *Newport News Shipbuilding & Dry Dock Co. v. Barnes*, 32 Va. App. 66, 69 (2000) (quoting *Commonwealth Dep't of Corr. v. Powell*, 2 Va. App. 712, 714 (1986)). Although Dr. Owusu-Akyaw was her treating physician and causally related Robinson's bilateral hip treatment to the accidents, he also acknowledged that he could not determine the exact time frame of the right-sided tear and offered no opinion on when the left-sided tear occurred. The Commission found that Dr. Owusu-Akyaw's opinion was based on Robinson's later self-reported hip pain. Other than a brief reference in FNP Jones's notes, none of Robinson's other medical providers noted complaints of hip pain. So we affirm the Commission's finding that Robinson failed to meet her burden of proving her bilateral hip injuries were caused by the November 2022 accident.

B. The Commission correctly found that Hanover is not responsible for Dr. Khan's medical treatment.

Robinson contends that the full Commission erred "in reversing the award of medical benefits for Dr. Khan's authorized pain-management care." We are not persuaded.

The full Commission held that Dr. Khan's medical treatment was not causally related to the November 2022 accident. The Commission could properly give "prepondering weight" to the evidence provided by Dr. Reis, the physician who treated Robinson's back. Dr. Reis first stated that Robinson's disc herniation symptoms related to the November 2022 accident. But upon review of the 2024 MRI, Dr. Reis found no evidence of nerve compression or physical cause of Robinson's pain complaints. Dr. Reis opined after reviewing additional records that Robinson's ongoing symptoms as of October 2023 were not causally related to the accidents.

Robinson challenges the credibility of Dr. Reis's opinions as contradictory and "inconsistent with his February 7, 2024 plan directing ongoing care to pain management" by Dr. Khan. But the Commission was entitled to weigh the conflicting evidence and determine credibility. Because it appropriately weighed Dr. Reis's opinion in its decision, we "defer[] to the Commission's factfinding." *Jeffreys*, 297 Va. at 87. Accordingly, the record supports the Commission's finding that Hanover should not be held liable for Dr. Khan's treatment.

C. Robinson failed to prove that she suffered a compensable injury by accident in January 2023.

Under the Workers' Compensation Act, "'[i]njury' means only injury by accident arising out of and in the course of the employment." Code § 65.2-101. To establish an "injury by accident," a claimant "must prove: '(1) an identifiable incident; (2) that occurs at some reasonably definite time; (3) an obvious sudden mechanical or structural change in the body; and (4) a causal connection between the incident and the bodily change.'" *Hoffman*, 50 Va. App. at 212 (quoting *Chesterfield County v. Dunn*, 9 Va. App. 475, 476 (1990)).

"[T]he requisite causative event must be more than a simple reference to a 'work activity;' it must be a specific occurrence that can be temporally fixed with reasonable accuracy." *City of Charlottesville v. Sclafani*, 300 Va. 212, 221 (2021) (citing *Morris v. Morris*, 238 Va. 578, 589 (1989)). "Merely establishing that a claimant was engaged in work activity during the discrete time period in which the injury occurred is insufficient." *Id.* "[T]he proper focus [should be] not on the specific time frame in which the accident occurred, but on the specific causative event that precipitated the accident because '[s]uch events are inevitably "bounded with rigid temporal precision."'" *Id.* at 221-22 (third alteration in original) (quoting *Morris*, 238 Va. at 589). "[A] claim asserting that an injury occurred during a time period where multiple potential causative events occur is not sufficiently temporally precise to establish a compensable injury." *Id.* at 222.

We reject Robinson's argument that her pursuit of the children was a "single continuous rescue" amounting to "one identifiable incident"; the record instead shows a series of events. Robinson testified that she initially walked and then ran after the children who left the elementary school. Once she reached them, she sat on the ground and held one of the children on her lap for an unknown amount of time. He struggled but also sat "crisscross" on her. Robinson then walked back to the school holding the child's hand; the child pulled on her arm as they walked. After they reached the school, the child jumped down the steps while pulling on Robinson's arm.

Robinson did not claim that she felt pain during these events and does not single out a "identifiable incident" for her injury. *Hoffman*, 50 Va. App. at 212 (quoting *Dunn*, 9 Va. App. at 476). Rather, she testified that she informed her fellow employee that she was in pain after she was in the school. Robinson engaged in several discrete activities of varying levels of exertion on different parts of her body. The Commission acknowledged that "it is unclear from the record

how long [Robinson's pursuit] took." "[A] claim asserting that an injury occurred during a time period where multiple potential causative events occur is not sufficiently temporally precise to establish a compensable injury." *Sclafani*, 300 Va. at 222. Under these facts, viewing the evidence in the light most favorable to Hanover, we cannot say that the Commission erred in finding that Robinson failed to prove that her injuries were caused by a specific event during her pursuit of the children.

CONCLUSION

Because there is credible evidence in the record to support the Commission's findings, we will not disturb the Commission's award.

Affirmed.

Raphael, J., concurring.

I join fully in the Court's opinion. I write separately to highlight that the entity named as the employer in this case—"Hanover Public Schools" or "Hanover County Public Schools"—is not a valid legal entity.

Under Virginia law, "[t]he supervision of schools in each school division [is] vested in a school board." Va. Const. art. VIII, § 7; Code § 22.1-28 (same). The General Assembly designates the "school board" as the "corporate" entity that "may sue [and] be sued." Code § 22.1-71. As a result, a locality's "Public Schools" or "Public School Division" is not a proper legal entity to either sue or be sued. Although there is a surprising dearth of Virginia caselaw pointing this out, it has been repeatedly recognized by federal courts in cases involving Virginia school boards. *See, e.g.*, *D.N. v. Louisa Cnty. Pub. Schs.*, 156 F. Supp. 3d 767, 777-78 (W.D. Va. 2016) ("Other courts in this Circuit, including this court, have held that public schools divisions are not entities that may be sued."); *Augustine v. Winchester Pub. Sch. Dist.*, No. 5:13-cv-25, 2013 U.S. Dist. LEXIS 133798, at *10-11 (W.D. Va. Sep. 3, 2013) (same), *report adopted*, 2013 U.S. Dist. LEXIS 132637, at *1-2 & n.1 (W.D. Va. Sep. 17, 2013); *Smith v. James C. Hormel Sch. of Va. Inst. for Autism*, No. 3:08cv00030, 2009 U.S. Dist. LEXIS 38615, at *11-12 (W.D. Va. Apr. 22, 2009) (same); *M.S. v. Fairfax Cnty. Sch. Bd.*, No. 1:05cv1476, 2006 U.S. Dist. LEXIS 53323, at *10-11 (E.D. Va. Mar. 20, 2006) (same); *Thayer v. Wash. Cnty. Sch. Bd.*, 949 F. Supp. 445, 446 n.1 (W.D. Va. 1996) (same).

The mistake is easy to make. Virginia school boards regularly do business as the locality's "Public Schools." The Virginia Department of Education even directs local school boards to include "Public Schools" in the name displayed on school buses. *See* Va. Dep't of Educ., *Virginia Public School Bus Specifications* 37 (eff. July 1, 2025), https://perma.cc/62GK-DF8Z. Perhaps it is not surprising, therefore, that several courts have permitted suits against a

school board that is "doing business as" the locality's "Public Schools." *E.g.*, *Smith*, 2009 U.S. Dist. LEXIS 38615, at *12 ("[T]his case should proceed against the Greene County School Board doing business as Greene County Public Schools."); *Webster v. Chesterfield Cnty. Sch. Bd.*, 38 F.4th 404, 404 (4th Cir. 2022) (naming the school board "d/b/a Chesterfield County Public Schools").

For the most part, it appears that school-employee claimants before the Virginia Workers' Compensation Commission have generally named the correct legal entity. A search of party names in the Lexis database for the Commission's opinions reveals a two-to-one preference for using "School Board" instead of "Public Schools." As respondents have not objected to the failure to name the Hanover County School Board in this case, however, we have no occasion to address the consequence, if any, of Robinson's failure to name the correct entity.