

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0757-12T1

RAYMOND MADDOX,

Petitioner-Respondent,

v.

TRAA CORP., t/a
MCDONALD'S,

Respondent-Appellant.

Argued May 6, 2014 – Decided June 10, 2014

Before Judges Fisher and Koblitz.

On appeal from New Jersey Department of Labor and Workforce Development, Division of Workers' Compensation, C.P. No. 2010-30527.

David P. Kendall argued the cause for appellant (Law Office of Ann DeBellis, attorney; Ann DeBellis, of counsel; Mr. Kendall, on the brief).

Michael O'Brien argued the cause for respondent (Jacobs, Schwalbe & Petruzzelli, P.C., attorneys; Mr. O'Brien, on the brief).

PER CURIAM

Respondent TRAA Corp., t/a McDonald's (McDonald's) appeals from an August 30, 2012 order directing the payment of temporary disability payments and medical benefits to petitioner Raymond Maddox, a maintenance worker who received an electrical shock

when he stood on a plastic bench and tried to change a broken light bulb in a wall fixture using pliers. The Judge of Workers' Compensation (JWC) determined after trial that the shock exacerbated Maddox's cervical problem such that surgery was required. We affirm.

Maddox worked for approximately seven years at the McDonald's restaurant, performing manual labor and repair work. Due to a prior head injury, he had a metal plate in his head and suffered from epilepsy. His prior injuries did not interfere with his ability to perform his job at McDonald's. The parties dispute only whether the electrical shock caused an exacerbation of Maddox's cervical condition resulting in the need for surgery. The need for surgery is not at issue.

The fact that Maddox received an electrical shock performing his duties during the work day is also not disputed. The restaurant manager did not want to turn off the main circuit breaker when the restaurant was open for business, so he turned off light switches until he mistakenly thought the current to the broken light was off. When Maddox put the pliers in the fixture, he felt the electricity going through his body and felt the sensation of being thrown from the fixture. His left hand jerked and he was assisted to a chair, feeling dazed and

confused, with pain in his left arm and leg. Witnesses saw sparks fly from the fixture and heard a popping sound.

The assistant manager called 911 and the shaken Maddox was transported by ambulance to the emergency room at the Atlantic City Medical Center Mainline Division, where he was transported to a trauma center. The trauma doctors admitted Maddox to the intensive care unit for neurologic monitoring. He was released from the hospital after three days and his treating board-certified neurologist determined that Maddox was in need of cervical surgery due to an exacerbation of his pre-existing asymptomatic cervical condition by the "electrocution." At first the treating neurologist, paid by McDonald's, agreed that the electrical shock caused Maddox to fall and the fall exacerbated the injury. Later, when he was told that Maddox did not fall on his back as first reported, the defense expert changed his opinion as to causation.

Maddox's expert, Dr. Russell I. Adams, relying on a learned treatise, maintained that the shock itself exacerbated the pre-existing condition, causing the need for surgery.

On appeal, McDonald's argues that the defense expert's opinion was an impermissible "net opinion," the JWC's finding Maddox credible was unsupported by the record, and McDonald's was denied due process when the JWC did not allow it to call a

witness to testify that Maddox did not regularly use a cane around town.

I

The Workers' Compensation Act (Act), N.J.S.A. 34:15-1 to -69.3, "is but one part of a statutory, decisional, and constitutional mosaic that provides dignity for all of our citizens in the workplace" by providing a rubric of compensation for employees injured on the job. Sager v. O.A. Peterson Constr. Co., 182 N.J. 156, 169 (2004). The parties do not dispute that Maddox is covered by the Act.

The standard of appellate review in a worker's compensation case is limited to

whether the findings made could reasonably have been reached on sufficient credible evidence present in the record, considering the proofs as a whole, with due regard to the opportunity of the one who heard the witnesses to judge of their credibility[.]

[Id. at 163-64 (quoting Close v. Kordulak Bros., 44 N.J. 589, 599 (1965)).]

Due weight must be given to the expertise of a compensation court judge. Harbatuk v. S&S Furniture Sys. Insulation, 211 N.J. Super. 614, 620 (App. Div. 1986).

II

In Point I of its brief, McDonald's maintains that Dr. Adams provided a "net opinion." We recognize that an expert

witness's opinions that are not reasonably supported by the factual record and an explanatory analysis from the expert may be excluded as a net opinion. See Creanqa v. Jardal, 185 N.J. 345, 360 (2005). In general, an expert should provide the "whys and wherefores" supporting his or her analysis. Beadling v. William Bowman Assocs., 355 N.J. Super. 70, 87 (App. Div. 2002).

Dr. Adams, a neurologist experienced in treating electrical injuries, supported his opinion by reference to the facts of the accident, including the "abrupt jolt" suffered by Maddox and that his symptoms began after the electrical shock he suffered. Dr. Adams referred to a learned treatise, Raymond D. Adams & Maurice Victor, Principles of Neurology, 1084-85 (5th ed. 1993), in support of his opinion that the electrical shock caused Maddox's need for surgery. Dr. Adams explained the reasons for his opinion and did not render a net opinion. The JWC found Maddox's expert more credible than the expert for McDonald's.

Unquestionably, employers are responsible for treatment of a pre-existing condition exacerbated by a work accident. Sexton v. Cnty. of Cumberland, 404 N.J. Super. 542, 555 (App. Div. 2009). The burden is on the employer to prove that the compensable accident was not the cause of the exacerbation. Verge v. Cnty. of Morris, 272 N.J. Super. 118, 125 (App. Div.

1994). The JWC found that McDonald's failed to meet this burden.

III

In Point II of its brief, McDonald's argues that the JWC's credibility findings were not supported by the record. The judge had the opportunity to see the demeanor of the witnesses on direct and cross-examination. Although the judge commented that Maddox had given somewhat contradictory versions of the accident as to whether he hit his back, the judge believed Maddox testified truthfully on the stand. The judge attributed the various versions of the accident to Maddox's memory lapse caused by the accident. The judge had the opportunity to observe Maddox and sufficient evidence on the record to find Maddox credible with regard to the onset of his symptoms and his experience of the severity of the electrical shock.


IV

Finally, McDonald's claims in Point III of its brief that the judge abused his discretion in not allowing it to call a lay witness to testify that Maddox did not use a cane around town. Maddox used a cane in court and when visiting the doctors. A "trial court has broad discretion in the conduct of the trial[.]" Litton Indus. Inc. v. IMO Indus., Inc., 200 N.J. 372, 392 (2009). The judge noted that the sole issue in the case was

causation. McDonald's did not dispute the severity of Maddox's condition or his need for surgery. Thus, the frequency of Maddox's use of a cane was of no moment.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


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