

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

LINN COUNTY, IOWA,)	
)	
Petitioner,)	
)	No. CVCV101813
v.)	
)	RULING
AMANDA ROBERTS,)	
)	
Respondent.)	

On this date, the above-captioned matter came before the undersigned for ruling on Petitioner's March 10, 2023 Petition for Judicial Review. Having considered the case file, applicable law, and written arguments of counsel, the Court hereby enters the following ruling.

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner Linn County, Iowa ("Linn County") petitions the Court for judicial review of a final agency action taken by the Iowa Workers' Compensation Commissioner ("Commissioner"). The Court summarizes the factual allegations below.

Respondent Amanda Roberts ("Roberts") became a registered nurse in June 2012. She worked as a corrections nurse in State and county correctional centers from approximately September 2012 to April 2020, starting at the Iowa Medical and Classification Center. In September 2017, Roberts began working at the Linn County Correctional Center ("LCCC"). Her duties included evaluating inmates at booking as needed, performing physical and other medical examinations, collecting and testing samples (or directing them to the appropriate facility for testing), and administering medication. She was also responsible for responding to emergencies and assessing injuries when fights broke out.

On June 5, 2019, Roberts was assaulted by an inmate at the LCCC while attempting to administer his medication. The inmate, who was occupying a dry cell, flung a milk carton containing an unidentified bodily fluid. Roberts described the fluid as being thicker and more viscous than water. "[I]t stuck to my skin all over my face and my neck, and I have no idea what the fluid was." Hr'g Tr. 37:20–38:14. The fluid entered her left eye and mouth. She further described the fluid as "kind of tast[ing] like you would expect a Porta Potti to smell . . . Very, very foul." *Id.* After the assault, Roberts did not immediately wash her face. While she was concerned that prolonged exposure to the unknown bodily fluid could give her an infection, she "wanted to make sure that the County had the ability to collect whatever they needed to collect to aid in prosecuting this individual." Hr'g Tr. 93:10–17. She testified that no one at LCCC instructed her to wash her face, and she does not recall whether she asked anyone if she should

wash her face, given the stress of the situation. Before she could receive medical treatment, Roberts and the on-call sergeant spoke with several individuals to obtain authorization for the postexposure workup. Roberts estimates that roughly an hour and a half to two and a half hours had passed between the time of the assault and the time she arrived at UnityPoint Health – St. Luke’s Hospital (“UnityPoint”) for the workup. UnityPoint drew samples to test for blood borne pathogens, including HIV and Hepatitis C. At this initial visit, Cindy Hanawalt, MD PhD imposed a work restriction barring Roberts from having contact with inmates at LCCC until reevaluation.

Roberts continued receiving follow-up treatment at UnityPoint over the ensuing months. On June 24, 2019, Jane Fischer, MD approved Roberts’s request to work part-time at LCCC, for a maximum of four hours per day. However, Roberts alleges that upon her return to work, she was mistreated by LCCC staff. She testified that her supervisor would no longer speak with her and would only communicate with her through sticky notes. Roberts further testified that other employees isolated and harassed her, causing her to feel unsafe working in a correctional facility, and she stated that another corrections nurse called her Sally Sensitive. Major Pete Wilson investigated two incidents of alleged harassment, but concluded there was no evidence of misconduct directed at Roberts.

On July 3, 2019, Roberts informed Shirley Pospisil, MD (“Dr. Pospisil”) that “sh[e] has tried to go back to work however she has been bearing the brunt of jokes while at work. This is causing quite a bit of stress. She is doing very poorly including being sick to her stomach.” JE1–11. Dr. Pospisil noted that Roberts was showing symptoms of post-traumatic stress disorder (“PTSD”) and removed her from work duty. Around this time, Roberts also began attending counseling with Leonarda Decker (“Decker”) through her husband’s employee assistance program. Roberts received treatment and medication management from Sarah von Harz, MD and Adam Woods, MD (“Dr. Woods”) starting in July and August 2019, respectively. On August 16, 2019, Dr. Woods diagnosed Roberts with adjustment disorder, generalized anxiety disorder (“GAD”) and ADHD.¹ Dr. Woods also gave a provisional diagnosis of PTSD, which he later formally diagnosed. Dr. Woods continued to regularly assess Roberts at least until November 3, 2021. Decker provided a PTSD diagnosis in therapy progress notes dated February 6, 2021 through May 14, 2021, the latter being Decker’s most recent progress note in the record.

At the request of Linn County Risk Management, Philip Ascheman, PhD (“Dr. Ascheman”) completed a psychological evaluation of Roberts on August 26, 2019. Dr. Ascheman agreed with Dr. Woods’s provisional diagnosis of PTSD, but he believed Roberts’s “symptoms may be better attributed to a diagnosis of Adjustment Disorder With Mixed Anxiety and Depressed Mood” or to “a pre-existing Generalized Anxiety Disorder.” Emp.’s Ex. A, at 5. He further concluded that Roberts’s “presentation suggests that anger at her employer and coworkers is likely to be a major component of her presentation, and may be more limiting than her other psychological symptoms.” *Id.*

¹ Roberts was diagnosed with ADHD in her childhood and she was already receiving treatment for this diagnosis.

Roberts also continued to be regularly reevaluated by Dr. Pospisil. On January 27, 2020, Dr. Pospisil took Roberts off work at least until her follow-up appointment on March 30, 2020. On March 10, 2020, Roberts underwent a second psychological evaluation by Dr. Ascheman. Dr. Ascheman opined that the ongoing and severe nature of Roberts's symptoms was attributable to her "perceived mistreatment by coworkers and being embarrassed" rather than to PTSD caused by the assault she experienced on June 5, 2019. *Id.* at 14–15. "Overall, it is my opinion that the patient's initial presentation was consistent with Adjustment Disorder with Anxiety and Depressed Mood, but would now be subsumed under Generalized Anxiety Disorder, which appears to be a pre-existing condition." *Id.* at 14. Dr. Ascheman further concluded that it was "not appropriate for [Roberts to] return to work at her current place of employment, and that additional treatment will not result in that outcome." *Id.* at 15.

Linn County terminated Roberts's employment on April 1, 2020. Thereafter, Roberts filed a claim with the Iowa Workers' Compensation Commissioner ("Commissioner") seeking temporary and permanent total disability benefits, as well as reimbursement for past medical expenses. During the pendency of the administrative proceedings, Roberts underwent another mental health evaluation performed by Catalina Ressler, PhD ("Dr. Ressler"). Dr. Ressler gave Roberts a primary diagnosis of chronic PTSD with dissociative features, and found that Roberts's limitations caused by her PTSD prevent her from rejoining the workforce. Dr. Ressler further concluded that with additional treatment, Roberts may eventually be able to rejoin the workforce in a limited capacity.

An arbitration hearing was held before Deputy Commissioner William Grell ("Deputy Grell") on April 13, 2022. Deputy Grell issued an arbitration decision on October 6, 2022 holding that Roberts had proved her permanent total disability claim under the traditional analysis as well as under the odd-lot doctrine. Deputy Grell found "the opinions of Dr. Woods and Ms. Decker to be the most credible and convincing," considering that each "provided claimant treatment and evaluated her on multiple occasions," and that each was well-qualified to opine on Roberts's diagnoses, symptoms, and causation. Arb. Decision 6. He gave little weight to Dr. Ascheman's opinion, reasoning that

Dr. Ascheman provides no explanation why claimant continues to have symptoms that were not present prior to her work injury. Claimant was not obtaining ongoing psychological or psychiatric treatment for Generalized Anxiety Disorder prior to this work event. Yet, she was fully functioning as a correctional nurse. She experienced prior traumatic events and incidents but did not require psychological or psychiatric treatment until after this work event with the liquid to her face. Again, Dr. Ascheman provides no explanation why these symptoms or treatment have been ongoing since the work incident if they were the result of a pre-existing condition .

...

Nevertheless, Dr. Ascheman opines that claimant is not fit for duty and cannot return to work as a correctional nurse. He further opines that further treatment is

not likely or expected to enable claimant to return to work in the Linn County Jail setting. Yet, Dr. Ascheman recommends no further treatment and no formal mental health restrictions. I do not find Dr. Ascheman's opinions to be consistent, logical, or credible on this record.

. . . Claimant required no treatment before that date [of the injury] and was capable of full-time work as a registered nurse in the correctional system. Her abilities and her mental health have clearly changed, or been materially and substantially aggravated, since the work incident. Therefore, I do not find the opinions of Dr. Ascheman to be convincing in this case.

Id. at 7–8. To the extent it supported Dr. Woods's and Decker's opinions, Deputy Grell accepted Dr. Pospisil's causation opinion. He also accepted portions of Dr. Ressler's opinion. Deputy Grell concluded "that [Roberts] has proven she is at MMI [maximum medical improvement] and that her PTSD is permanent in the sense that it is not anticipated to significantly improve in the immediate or foreseeable future without additional treatment." *Id.* at 6. He awarded Roberts temporary total disability benefits from March 24, 2020 through May 20, 2021 and permanent total disability benefits from May 21, 2021 for as long as Roberts remains permanently disabled.

Linn County appealed Deputy Grell's arbitration decision to Commissioner Joseph Cortese II ("Commissioner Cortese"). Upon performing a de novo review of the record, Commissioner Cortese issued an appeal decision on February 8, 2023, affirming Deputy Grell's analysis, findings, and conclusions. Linn County commenced the instant action on March 10, 2023.

CONCLUSIONS OF LAW

Linn County brings this action in district court pursuant to Iowa Code section 17A.19. "Except as expressly provided otherwise by another statute referring to this chapter by name, the judicial review provisions of this chapter shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of such agency action." Iowa Code § 17A.19 (2023). "The burden of demonstrating the required prejudice and the invalidity of agency action is on the party asserting invalidity." *Id.* § 17A.19(8)(a). The Petition appears to request relief under subsection 10, paragraphs (c), (f), (h), (i), (l), and (n). Linn County's written arguments, however, only cite paragraphs (f), (i), and (n). Therefore, the Court limits its review to these three paragraphs.

The court may affirm the agency action or remand to the agency for further proceedings. The court shall reverse, modify, or grant other appropriate relief from agency action, equitable or legal and including declaratory relief, if it determines that substantial rights of the person seeking judicial relief have been prejudiced because the agency action is any of the following:

. . .

- (f) Based upon a determination of fact clearly vested by a provision of law in the discretion of the agency that is not supported by substantial evidence in the record before the court when that record is viewed as a whole. For purposes of this paragraph, the following terms have the following meanings:

- (1) “*Substantial evidence*” means the quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.

...

- (i) The product of reasoning that is so illogical as to render it wholly irrational.

...

- (n) Otherwise unreasonable, arbitrary, capricious, or an abuse of discretion.

Id. § 17A.19(10). “In making the determinations required by subsection 10, paragraphs ‘a’ through ‘n’, the court shall . . . give appropriate deference to the view of the agency with respect to particular matters that have been vested by a provision of law in the discretion of the agency.” *Id.* § 17A.19(11)(c).

“Our review of decisions by the industrial commissioner is on error, not de novo.” *St. Luke’s Hosp. v. Gray*, 604 N.W.2d 646, 649 (Iowa 2000). However, our review is also “fairly intensive” and “we view the record as a whole, which includes a consideration of evidence supporting the challenged finding as well as evidence detracting from it.” *Cedar Rapids Cmty. Sch. Dist. v. Pease*, 807 N.W.2d 839, 844–45 (Iowa 2011); *Neal v. Annett Holdings, Inc.*, 814 N.W.2d 512, 525 (Iowa 2012). “Evidence is not insubstantial merely because different conclusions may be drawn from the evidence.” *Pease*, 807 N.W.2d at 845. “Evidence is substantial if a reasonable mind would accept it as adequate to reach the given conclusion.” *Gray*, 604 N.W.2d at 649.

Under Iowa Code chapter 17A, expert credibility determinations are generally outside the scope of the Court’s review of administrative decisions. “Ultimately, . . . the determination of whether to accept or reject an expert opinion is within the ‘peculiar province’ of the commissioner.” *Cedar Rapids Cmty. Sch. Dist. v. Pease*, 807 N.W.2d 839, 845 (Iowa 2011). “The commissioner is free to accept or reject an expert’s opinion in whole or in part, particularly when relying on a conflicting expert opinion.” *Id.* at 850. Courts do not interfere with the commissioner’s rejection of expert testimony unless the rejection was arbitrary or unreasonable. *Poula v. Siouxland Wall & Ceiling, Inc.*, 516 N.W.2d 910, 911–12 (Iowa Ct. App. 1994).

Making a determination as to whether evidence “trumps” other evidence or whether one piece of evidence is “qualitatively weaker” than another piece of evidence is not an assessment for the district court or the court of appeals to make when it conducts a substantial evidence review of an agency decision. It is the commissioner’s duty as the trier of fact to determine the credibility of the witnesses, weigh the evidence, and decide the facts in issue. The reviewing court only determines whether substantial evidence supports a finding “*according to those witnesses whom the [commissioner] believed.*” Consequently, both the district court and the court of appeals improperly weighed the evidence to overrule the commissioner’s findings.

Arndt v. City of Le Claire, 728 N.W.2d 389, 394–95 (Iowa 2007) (quoting *Tim O’Neill Chevrolet, Inc. v. Forristall*, 551 N.W.2d 661, 614 (Iowa 1996)) (emphasis and alteration in original). “The courts, in their appellate capacity, ‘are not at liberty to accept contradictory opinions of other experts in order to reject the finding of the commissioner.’” *Pease*, 807 N.W.2d at 850 (quoting *Dille v. Plainview Coal Co.*, 250 N.W. 607, 615 (Iowa 1933)).

Linn County argues that Deputy Grell and Commissioner Cortese erred in “not find[ing] Dr. Ascheman’s opinions to be consistent, logical, or credible” and in giving more weight to the opinions of Dr. Woods and Decker. Pet.’s Br. 8–9; Arb. Decision 6–8. Linn County further argues that Roberts, Dr. Woods, and Dr. Ressler are not credible witnesses. Linn County concludes that the Commission’s determinations as to the expert opinions are illogical, arbitrary, and unreasonable, and if the Court were to reject those determinations, the Commission’s findings would not be supported by substantial evidence.

In light of the foregoing authority, the Court cannot disturb the Commission’s credibility determinations and weighing of expert opinions while conducting a substantial evidence review. *Arndt*, 728 N.W.2d at 394–95. Deputy Grell clearly and thoroughly articulated his rationale for giving little weight to Dr. Ascheman’s opinions. The Court finds his determination to be well reasoned. On appeal, Linn County argues that contrary to Deputy Grell’s finding, Dr. Ascheman did provide an explanation for Roberts’s ongoing symptoms that were not present prior to the assault: Dr. Ascheman opined that Roberts’s “ongoing symptoms are caused by her perceptions about her coworkers and her employment.” Pet.’s Br. 11; Emp.’s Ex. A, at 15. However, Dr. Ascheman did not clearly identify the cause of the *perceptions*, at most suggesting a causal relationship with pre-existing GAD. He failed to explain how a pre-existing condition, alone, could cause the perceptions and resulting symptoms to develop in the aftermath of the assault, considering that in the past, Roberts did not suffer symptoms requiring psychological or psychiatric treatment after experiencing traumatic events.² And even assuming a causal relationship existed between pre-existing GAD, the perceptions, and the symptoms, this would not preclude Roberts from recovering permanent total disability benefits. “[O]ur law has

² Roberts testified that during her career as a corrections nurse, she was assaulted on numerous occasions and responded to suicides and attempted suicides, but she did not experience lasting symptoms after being exposed to those traumatic incidents.

recognized the distinction between preexisting conditions and preexisting disability. Full compensation is allowed for the result of workplace activities aggravating a preexisting condition.” *Floyd v. Quaker Oats*, 646 N.W.2d 105, 110 (Iowa 2002). Even if the Court were to set aside the highly deferential standard and perform a de novo review, the Court would reach the same conclusions as the Commission.

The Court is not persuaded that the Commission made an arbitrary or unreasonable decision with respect to expert opinions that would justify disturbing the decision or reversing the final agency action. *Poula*, 516 N.W.2d at 912. The Court finds that substantial evidence supports Deputy Grell and Commissioner Cortese’s findings according to the witnesses whom they believed. *Arndt*, 728 N.W.2d at 395. Those witnesses have consistently attributed Roberts’s symptoms to PTSD caused by the June 5, 2019 assault. Therefore, the Court affirms the Commission’s decision in its entirety.

RULING

IT IS THEREFORE ORDERED that Linn County’s March 10, 2023 Petition for Judicial Review is **DISMISSED**. Any outstanding court costs are assessed to Linn County. This matter is deemed closed and finalized.

Clerk to notify.



State of Iowa Courts

Case Number
CVCV101813
Type:

Case Title
LINN COUNTY, IOWA VS AMANDA ROBERTS
DISMISSED PER COURT

So Ordered

A handwritten signature in dark ink that reads 'Kevin Mc Keever'. The signature is written in a cursive style with a horizontal line underneath.

Kevin McKeever, District Court Judge,
Sixth Judicial District of Iowa

Electronically signed on 2023-08-25 15:49:02