

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT KNOXVILLE

September 19, 2003 Session

**DEBRA A. PRESSLEY v. STATE OF TENNESSEE**

**Direct Appeal from the Tennessee Claims Commission  
No. 20101036 Vance W. Cheek, Jr., Commissioner**

Filed January 14, 2004

**No. E2003-01133-WC-R3-CV**

---

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. The Claims Commissioner dismissed the complaint finding that the employee's mental condition was of long duration and was the result of a gradual build-up of work stress. The judgment of the Claims Commission is reversed and the case is remanded.

**Tenn. Code Ann. § 50-6-225(e) (1999) Appeal as of Right; Judgment of the Tennessee  
Claims Commission is Reversed and Remanded**

ROGER E. THAYER, SP. J., delivered the opinion of the court, in which E. RILEY ANDERSON, J., and JOHN K. BYERS, SR. J., joined.

J. Anthony Farmer and John P. Dreiser, of Knoxville, Tennessee, for Appellant, Debra A. Pressley.

Paul G. Summers, Attorney General and Reporter, and George H. Coffin, Jr., Senior Counsel for Appellee, State of Tennessee.

**MEMORANDUM OPINION**

The employee, Debra A. Pressley, appeals from the trial court's action in dismissing her complaint and entering judgment in favor of the employer, State of Tennessee. The Claims commissioner held the employee's mental condition was of long duration and the result of a gradual build-up of work stress and therefore not compensable.

Facts

Ms. Pressley, a 1976 high school graduate with an Associate's degree in business and word processing, began working for the Tennessee Department of Safety in 1989 as a drivers license

examiner. She worked in this position for about two years and then transferred to working as a weigh station operator where she remained for about one year. In 1992 she began regular duties as a State Trooper and was assigned to work in Knox County. She testified that prior to working as a State Trooper, she had never been seen or treated for any psychological problems. She said her regular duties as a patrol officer required her to investigate many accidents with fatalities but that never really bothered her.

Ms. Pressley told the court of three specific events that occurred during the last two years of her work that she said caused her to become very depressed, have flashbacks and suffer awful nightmares to the extent she was hospitalized on several occasions and rendered unable to work. In late 1997 or early 1998, she was required to assist another officer in investigating a single vehicle accident on Interstate 40 which involved a motorcycle where the driver was decapitated when he came into contact with a guardrail. She had to search the wreck scene in order to locate the driver's head. The second event was an accident in 1999 on the John Sevier Highway involving a young woman who was killed when another vehicle impacted her car so severely there was difficulty in removing her body from the wreckage and where she described an enormous amount of blood in the wreckage. She had to notify the family and also prevent the family from seeing the body and blood. The last event and the one that she said seemed to cause her the most trouble was in 2000 and was an accident where a vehicle actually rolled on top of the driver's head and the head was crushed and "elongated and buried in mud." She said the individual who died was known to her family.

Ms. Pressley said these events caused her to become very depressed; that she quit doing everything; could not sleep or eat very much; caused her to have flashbacks and nightmares when she would dream about being at work and called to another tragic accident scene. She indicated that sometimes a certain smell would remind her of a grisly mixture of corpse, battery acid and transmission fluid all mixed together as the smell of death. In describing this, she told the court she could smell it while talking about it.

She eventually had to stop working and was seen by a licensed clinical psychologist upon referral by the Department of Safety. She said she was so distraught that she attempted suicide four times during the period she was not working. The first time she was hospitalized was in April 2000 after cutting herself with a knife. She has been in the hospital on several other occasions since then.

She testified she is unable to work; cannot hardly stand to leave her house; has panic attacks; and she hyperventilates often. She stated she had worked as a State Trooper for almost ten years and had never had problems of this nature prior to the three events she described. She admitted she was having some problems in her marriage during this same period of time but attributed some of that as a result of her unusual and stressful condition. She was awarded disability retirement benefits with the State and is now receiving Social Security Disability benefits.

Dr. Francis P. LeBuffe, a psychiatrist, testified by deposition. He was Ms. Pressley's treating doctor and he saw her for the first time in the hospital on April 4, 2000. He testified she had all of the symptoms of severe depression; that she was not able to work and his diagnosis was (1) major

depression, recurrent, severe (2) panic disorder (3) post-traumatic stress syndrome and at one time he listed (4) personality disorder, mixed type. He said the events she had described could certainly cause her present condition and that she had just been overwhelmed by job trauma; that she was almost house bound and that she would need treatment for many years to come. The doctor was not asked to translate his findings to determine medical impairment under the AMA Guidelines.

The report of Michael A. Bottari, a licensed clinical psychologist, was filed as an exhibit to Dr. LeBuffe's deposition. It is dated June 19, 2001 and indicates Mr. Bottari saw the employee at the request of the Human Resources Director, Tennessee Department of Safety. The purpose of the examination was to determine if there was any emotional or intellectual characteristics which would detrimentally affect the employee's performance as a State Trooper in view of the fact she had requested to be assigned to light duty. The report is very lengthy and we do not find it necessary to relate this information except for pointing out the following statements. The examiner found Ms. Pressley had two pre-employment psychological evaluations and passed both; she first sought mental health treatment during April 2000 and had stopped working during January of 2001. The examiner concluded she was in an emotionally fragile state and had been overwhelmed by her job; that the examiner wondered if Dr. LeBuffe might be underestimating her condition and that she was unable to perform any full time gainful employment. The report concluded by stating he did not recommend she return to light duty.

The court also heard the testimony of Dr. Julian Nadolsky, a vocational rehabilitation consultant, who was of the opinion the employee was 100 percent vocationally disabled.

The State did not offer any evidence.

The employee filed this claim for workers' compensation benefits with the Division of Claims Administration, State of Tennessee. The claim was denied and she appealed to the Tennessee Claims Commission. After an evidentiary hearing, the Claims Commissioner dismissed the complaint finding claimant's condition was of long duration and her mental condition was due to a gradual build-up of stress and was not compensable. Although the complaint was dismissed, there was no alternative ruling on the other issues in the case.

#### Standard of Review

The standard of review in this case is *de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the findings unless the preponderance of the evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2). However, the reviewing court may draw its own conclusions about the weight and credibility of expert testimony when the medical proof is presented by deposition or other documents since we are in the same position as the trial court to evaluate such testimony. *Houser v. Bi-Lo., Inc.*, 36 S.W.3d 68 (Tenn. 2001).

#### Analysis

A mental injury is compensable under the workers' compensation scheme when it results from an identifiable stressful, work-related event producing a sudden mental stimulus such as fright, shock, or excessive unexpected anxiety. *Goodloe v. State*, 36 S.W.3d 62 (Tenn. 2001); *Ivey v. Trans Global Gas & Oil*, 3 S.W.3d 441, 446 (Tenn. 1999). However "worry, anxiety or emotional stress of a general nature" is not compensable because the workers' compensation system does not embrace every stress or strain of daily living or every undesirable experience encountered in carrying out the duties of a contract of employment. *Allied Chemical Corp. v. Wells*, 578 S.W.2d 369 (Tenn. 1979); *Jose v. Equifax, Inc.*, 556 S.W.2d 82, 84 (Tenn. 1977). To be compensable, the stress produced may not be usual stress, but must be extraordinary and unusual in comparison to the stress ordinarily experienced by an employee in the same type duty. *Gatlin v. Knoxville*, 822 S.W.2d 587 (Tenn. 1991).

The Claims Commissioner found Ms. Pressley's condition to be of long duration and due to a gradual build-up of stress and not compensable. The Commissioner relied on the holding in the unreported case of *Cheslock v. Board of Administration, City of Memphis Retirement System*, 2001 WL 1078263 (Tenn. Ct. App. 2001). In this case, a police officer had been diagnosed by two psychiatrists as disabled by job related Post Traumatic Stress Disorder. The officer was a member of the Tactical Unit of the Memphis Police Department and sought disability retirement benefits from two specific incidents. One involved his contact with a severely abused twenty-three day old infant who later died. The other incident was a call to a particularly gruesome murder scene. The Pension Board found his condition was the result of usual and ordinary stress of his job and denied the claim. He appealed to the Court of Appeals under a common law writ of certiorari under Tennessee Code Annotated § 27-8-101 (2000). The City of Memphis had opted out of the Tennessee Workers' Compensation Act and was self-insured. The Court of Appeals upheld the Pension Board's decision.

We are not persuaded by this holding as (1) it was not decided at the trial level under the Workers' Compensation Act and (2) it was reviewed on appeal under the common law writ of certiorari which limits the reviewing court to consider whether the Pension Board exceeded its jurisdiction or acted illegally, arbitrarily or fraudulently. Under such review, the Pension Board's decision must be upheld if there was any material evidence to support its findings. *Davison v. Carr*, 659 S.W.2d 361, 363 (Tenn. 1983). Neither the trial court or a reviewing court may weigh the evidence. *Watts v. Civil Service Board*, 606 S.W.2d 274 (Tenn. 1980). Since our review of the appeal in the present case allows us to weigh the evidence and determine whether it preponderates against the findings of the claims commissioner, we are of the opinion the ruling in *Cheslock* is not applicable.

Ms. Pressley testified her regular duties as a State Trooper required her to enforce the speed laws by issuing tickets, investigate accidents and assist stranded motorists. She stated she had performed these duties for almost ten years and the investigation of accidents with fatalities had never really bothered her until she encountered the three specific events she has described. Her treating doctor was asked in his deposition if he would classify the three events she described as

“unusual and extraordinary” and his reply was: “Yes. I mean its outside normal human experience to experience scenes of that kind of mayhem to other human beings.”

The trial court found her mental condition was of long duration. We find the evidence preponderates against this conclusion. There is not a spark or glimmer of evidence that she was previously suffering from the symptoms she described during the last stages of her employment status. It is true she did describe some stressful personal problems with family and in her marriage, however, these events in the years prior to the specific events in question have not been linked in any way to the condition upon which her claim is based. Her treating doctor stated the specific events she described could cause her severe depression, etc., and this is sufficient to establish causation.

In *Gatlin v. Knoxville, supra*, a police officer was awarded 100 percent permanent disability by the trial court after hearing medical evidence that his stressful employment had caused severe depression with psychotic symptoms. The officer had been employed for about twelve years and worked in several different units of the department. The evidence showed all of his particular work was dangerous and under stressful conditions. On appeal, the Supreme Court held the claim was not compensable as it arose from general working conditions and was not caused by any specific act which was sudden, acute or unexpected mental stimulus. We do not find the ruling in this case to be applicable to Ms. Pressley’s claim as all of the evidence in this action confines the origin of the employee’s present mental condition to follow the specific events in question.

The present claim is somewhat different from most factual reported cases in that the claim is based on several specific events. We are of the opinion the mere fact the employee relies on several unique and specific events does not make the claim a gradual non-compensable injury. In the case of *Goodloe v. State, supra*, the Court recognized a compensable mental injury claim may be based on a “series of incidents involving mental or emotional stress of an unusual or abnormal nature.” We find the evidence preponderates against the trial court’s finding the injury was gradual and not compensable.

The State insists the medical evidence is not sufficient to establish permanent disability and the decision of the trial court should be upheld. In view of the trial court’s holding, the issue of permanent disability was not considered or ruled on. Upon remand it may be necessary to supplement the doctor’s deposition in order to clarify some of his statements and also translate his findings as to medical impairment under the AMA Guidelines.

### Conclusion

We hold the employee’s mental condition did not arise from the general and usual working conditions of her employment but was caused by several specific events which were unusual and extraordinary in her occupation and produced a mental stimulus of shock and unexpected anxiety.

Finding the evidence preponderates against the decision of the trial court, the judgment is reversed and the case is remanded for the determination of all other issues. Costs of the appeal are taxed against the employer.

---

ROGER E. THAYER, SPECIAL JUDGE

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE, TENNESSEE

**DEBRA A. PRESSLEY V. STATE OF TENNESSEE**  
**Tennessee Claims Commission**  
**No. 20101036**

**January 14, 2004**

---

**No. E2003- 01133-WC-R3-CV**

---

**JUDGMENT**

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of facts and conclusions of law are adopted and affirmed and the decision of the Panel is made the Judgment of the Court.

The costs on appeal are taxed to the appellee, State of Tennessee, for which execution may issue if necessary.