

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2023 MTWCC 2

WCC No. 2023-6352 & 2023-00015

CHERYL RENEE CHRISTOFFERSEN

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

Summary: Petitioner contends that she suffered a left-wrist condition from overuse at her bus-driving job, and that inflammation from the left-wrist condition progressed to affect her right elbow and heart. Respondent contends that Petitioner failed to prove she suffered an occupational disease because she lacks an expert medical opinion that her employment was the major contributing cause of any of her conditions.

Held: Petitioner failed to meet her burden of proving that she suffered an occupational disease. Petitioner offered no expert medical opinion, and the evidence did not otherwise establish, that it was more probable than not that her employment was the major contributing cause of any of her conditions.

¶ 1 The trial in this matter was held on August 2, 2023, in Helena, Montana. Petitioner Cheryl Renee Christoffersen was present and represented herself. Respondent Montana State Fund (State Fund) was represented by Mark D. Meyer. Sarah Steinmetz, claims adjuster, was present on behalf of State Fund.

¶ 2 **Exhibits:** This Court admitted Exhibits 1 through 6, 8 through 17, and 20 without objection. Christoffersen withdrew Exhibits 7 and 18.

¶ 3 **Witnesses and Depositions:** This Court admitted Christoffersen's deposition into evidence. Christoffersen was sworn and testified at trial.

¶ 4 Issue Presented: This Court restates the issue from the Pretrial Order as follows:

¶ 4a Issue One: Did Petitioner suffer a compensable occupational disease to her left wrist, right elbow, and heart as a result of her employment?¹

FINDINGS OF FACT

¶ 5 This Court finds the following facts by a preponderance of the evidence.²

¶ 6 At all times relevant to this action, Karst Stage, Inc. (Karst Stage) was enrolled under Plan No. III of the Workers' Compensation Act and insured by State Fund.

¶ 7 In November of 2021, Christoffersen was working for Karst Stage as a full-time bus and motor-coach driver.

¶ 8 On or around Sunday, November 21, 2021, after she had given her two-weeks' notice but while she was still working for Karst Stage, Christoffersen experienced weakness in her left hand while sweeping out a bus.

¶ 9 On Friday, November 26, 2021, Christoffersen's last day of work at Karst Stage, she felt a small pain in her left arm, that was "a little out of the normal."

¶ 10 The following day, Saturday, November 27, 2021, Christoffersen woke up in extreme left-hand pain, to the point where she could not hold a pen.

¶ 11 On November 30, 2021, Christoffersen saw Maria L. Lasher, DO, at the Fort Harrison VA Medical Center (VA) for the pain in her left hand. Dr. Lasher asked her how she thought it happened. Christoffersen told Dr. Lasher that she was a bus driver, and that she felt pain at work but did not remember falling or hitting it or anything else happening at work that would cause it. Dr. Lasher did not offer any opinion as to where Christoffersen's pain came from or possible diagnoses. Dr. Lasher prescribed Christoffersen an NSAID "as needed for pain and inflammation"³ and a blood pressure medication for hypertension. She then referred Christoffersen to Bridger Orthopedic and Sports Medicine (Bridger Orthopedic).

¶ 12 The same day, November 30, 2021, Christoffersen saw Matt Neuman, PA, at Bridger Orthopedic, complaining of pain in her left hand and wrist. Christoffersen told PA

¹ This issue encompasses the question of whether Petitioner suffered a compensable left-wrist condition, which, in turn, caused her right-elbow and/or heart conditions. See generally *Suzor v. Int'l Paper Co.*, 2017 MTWCC 17, ¶ 23 & n.7 ("It is well established that when the sequelae of an industrial injury [or occupational disease] causes an injury or disease to another body part, the insurer is liable for the injury or disease to the other body part.").

² Ordinarily, the claimant bears the burden of proving by a preponderance of the evidence that she is entitled to the benefits she seeks. *Dumont v. Wickens Bros. Constr. Co.*, 183 Mont. 190, 201, 598 P.2d 1099, 1105-06 (1979) (citations omitted).

³ Emphasis removed.

Neuman that she was a bus driver, and that, starting the previous Friday, November 26, 2021, she “woke up with pain” but had “no trauma or injury.” In his Assessment, PA Neuman described Christoffersen’s presentation as “somewhat unclear” due to her having “rather significant out of proportion pain” but no mechanism of injury or trauma and no history of problems with her wrist. PA Neuman raised two possible causes: radial styloid tenosynovitis, which he ruled out; and an exacerbation of underlying gout.⁴ PA Neuman diagnosed Christoffersen with “[p]ain of left hand.” He prescribed her a steroid used to treat inflammation and recommended conservative treatment.

¶ 13 On December 3, 2021, Christoffersen filled out a First Report of Injury for State Fund. In the space marked “Description of Accident,”⁵ Christoffersen wrote “stress/over use injury” and in the space marked “Part of Body,”⁶ she wrote “left arm.”

¶ 14 On December 24, 2021, Christoffersen was taken by ambulance to the Emergency Room at Bozeman Health Deaconess Hospital with chest pain, where she was treated by Tiffany A. Kuehl, MD. Christoffersen told Dr. Kuehl that her hypertension began when she was diagnosed with left-wrist tendonitis in November.⁷ Dr. Kuehl offered no opinion as to the cause of either Christoffersen’s left-wrist condition or her hypertension. Dr. Kuehl did, however, raise a number of possible causes of Christoffersen’s chest pain. While she was able to rule out many of the possible causes, including pericarditis, myocarditis, and other inflammatory conditions, Dr. Kuehl could not rule out unstable angina, worsening coronary artery stenosis, pain secondary to hypertension, or a critical ischemic lesion. She diagnosed Christoffersen with “[c]hest pain, unspecified type,” and “[e]levated blood pressure reading.” Dr. Kuehl increased Christoffersen’s blood pressure medication, and continued her NSAID, as needed.

¶ 15 Over the next several months, Christoffersen called the VA or saw Dr. Lasher several times. Christoffersen’s medical records indicate that she had severe stress at this time that would persist through at least the summer. As for Christoffersen’s hypertension, Dr. Lasher added a second blood pressure medication, and raised the possibility of a connection between pain in her lower legs with exertion and her circulation for which a cardiac or lower extremity ultrasound was needed. As for Christoffersen’s continued left-wrist pain, Dr. Lasher reiterated her understanding that it had begun for unknown reasons and referred her for more orthopedic intervention.

⁴ Christoffersen testified that PA Neuman raised the following as possible diagnoses for her left-wrist condition: gout, arthritis, carpal tunnel, diabetes, and tendonitis. However, the records this Court has from PA Neuman mention only gout and do not rule it out. See Exhibit 12.

⁵ Emphasis removed.

⁶ Emphasis removed.

⁷ The records this Court has from providers Christoffersen had seen to date do *not* show a diagnosis of left-wrist tendonitis. See Exhibits 3, 12.

¶ 16 On April 4, 2022, Christoffersen saw Jon Medler, PA, at Bridger Orthopedic, with left-wrist and right-elbow pain. Christoffersen told him, in pertinent part, that she had: “Pain in her left wrist since November of 2021, when she woke up in the morning She is not sure how it happened. No falls or trauma to report. She did not have any change in her regular routine [or] her exercise routine.” PA Medler was concerned that Christoffersen may have Triangular Fibrocartilage Complex degeneration or inflammatory arthritis and ordered a left-wrist MRI and lab work, respectively, to investigate. PA Medler assessed Christoffersen as having “Left atraumatic wrist pain.” As to Christoffersen’s right-elbow pain, PA Medler assessed her as having lateral epicondylitis but offered no opinion as to the cause of that condition.

¶ 17 On July 28, 2022, Christoffersen established care with a new primary care provider at the VA, Mary Alston, NP. During her appointment, Christoffersen told NP Alston that her wrist pain started on the left side but was now on the right side, and that she was told it was tendonitis.⁸ NP Alston did not offer an opinion as to the cause of her pain. She did, however, tell Christoffersen that she should have been getting medical status forms filled out for every individual appointment.

¶ 18 On August 17, 2022, Christoffersen returned to see PA Medler with continued left-wrist and right-elbow pain. Based on Christoffersen’s comments about her right-elbow condition, PA Medler noted, in pertinent part: “This injury seems to have stemmed from when she was overusing (sic) at work in November. She had [related] all her pain to her occupation in November.” PA Medler assessed Christoffersen with “Right elbow lateral epicondylitis” and gave her a cortisone shot for pain. As to Christoffersen’s left wrist, PA Medler revised his assessment to indicate that her left atraumatic wrist pain had an onset of November 2021 at work. PA Medler filled out a Medical Status Form in which he listed Christoffersen’s diagnoses and restrictions but offered no opinion of his own as to the cause of either of her conditions.

¶ 19 On September 16, 2022, Christoffersen saw Rindy S. Miller, OTR/L, CHT, at Bridger Orthopedic. Christoffersen told Miller that she had had pain in her left hand and wrist for nearly a year. Christoffersen explained that she was a bus driver at the time of her injury and that the mechanism of her injury was “sweeping a bus in Nov[.] 2021.” OT Miller assessed Christoffersen with “[p]ain of left wrist” and “[p]ain of left hand” but offered no opinion of her own as to the cause of Christoffersen’s condition.

¶ 20 On June 11, 2023, Christoffersen saw Stephanie Thomas, MD, at the Emergency Department of CHI St. Alexius Health Dickinson Medical Center in Dickinson, North Dakota, for chest pain. Christoffersen told Dr. Thomas that, until recently, she had been taking an NSAID for wrist and elbow pain, and that she was currently taking several

⁸ The records this Court has from providers Christoffersen had seen to date do *not* show a diagnosis of left-wrist tendonitis. See Exhibits 3, 12, 6, 17, and 16. On April 4, 2022, Christoffersen was diagnosed with right lateral epicondylitis, which is tendonitis of the right elbow. See Exhibit 16.

medications for hypertension, but that she had had no prior history of chest pain.⁹ Dr. Thomas offered no opinion as to the cause of Christoffersen’s wrist and elbow pain, or her hypertension. As for the chest pain, Dr. Thomas gave Christoffersen a blood thinner and vein dilator, and ordered lab work, an EKG, and a chest x-ray. Dr. Thomas determined that there was no evidence of acute coronary syndrome, myocardial damage, ischemia, arrhythmia, or acute cardiopulmonary process. Based on Christoffersen’s EKG and troponin at different intervals, Dr. Thomas “suspect[ed]” that her chest pain “may be related to mild pericarditis or myocarditis.” At discharge, Dr. Thomas noted, “Patient warrants further outpatient testing and have advised follow-up with her PCP for treadmill stress testing or [] other pertinent cardiac evaluation.”¹⁰ Dr. Thomas further observed that Christoffersen had elevated blood pressure without hypertensive urgency, and instructed her to “follow-up with her PCP regarding reevaluation of her hypertension.”

CONCLUSIONS OF LAW

¶ 21 This case is governed by the 2021 version of the Montana Workers’ Compensation Act since that was the law in effect on Christoffersen’s last day of employment and consequently, her alleged last injurious exposure.¹¹

¶ 22 This Court must determine whether Christoffersen has a compensable occupational disease. An “occupational disease” is defined as “harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift.”¹²

¶ 23 To establish that a claimant has a compensable occupational disease, the claimant must set forth objective medical evidence of the occupational disease, and prove that “the events occurring on more than a single day or work shift are the major contributing cause of the occupational disease in relation to other factors contributing to the occupational disease.”¹³ In this context, “major contributing cause” means “a cause that is the leading cause contributing to the result when compared to all other contributing causes.”¹⁴ The Montana Supreme Court has explained that “under the definition of ‘major contributing

⁹ Christoffersen went to the Emergency Room at Bozeman Health Deaconess Hospital with chest pain on December 24, 2021.

¹⁰ Elsewhere, Dr. Thomas indicated that Christoffersen should “follow[-]up with [her] regular doctor for evaluation of possible pericarditis or myocarditis-- heart inflam[m]ation.” (Alterations added. Emphasis removed.)

¹¹ *Hardgrove v. Transp. Ins. Co.*, 2004 MT 340, ¶ 2, 324 Mont. 238, 103 P.3d 999 (citation omitted); *Nelson v. Cenex, Inc.*, 2008 MT 108, ¶ 33, 342 Mont. 371, 181 P.3d 619.

¹² § 39-71-116(23)(a), MCA.

¹³ § 39-71-407(12)(a), (b), MCA.

¹⁴ § 39-71-407(16), MCA.

cause,' all contributing factors must be considered in determining whether a condition qualifies as an occupational disease."¹⁵

¶ 24 In *Grande v. Montana State Fund*, this Court ruled that for a condition to be compensable as an occupational disease, the worker's job duties need not be the only contributing factor, but must be the cause that ranks first among all causes, including a pre-existing condition.¹⁶ This Court explained, "a 'leading cause' under the statute is that cause which ranks first among all causes 'contributing to the result'—i.e., the condition for which benefits are sought—regardless of the respective percentages of the multiple contributing causes."¹⁷

¶ 25 The exhibits contain sufficient objective medical evidence of Christoffersen's health conditions. State Fund contests only whether Christoffersen's employment was the major contributing cause of those conditions.

¶ 26 Christoffersen argues that her left-wrist and right-elbow conditions originated from overuse in her employment as a bus/motor coach driver. She further argues that it is logical that the pain and inflammation associated with her left-wrist condition progressed—literally spread—to her right elbow and heart, as well. Finally, Christoffersen argues that inflammation around her heart caused her hypertension. Although Christoffersen did not depose a medical expert nor bring one to trial, she argues that the evidence speaks for itself. In particular, she contends that OT Miller's September 16, 2022, medical records, and PA Medler's August 17, 2022, medical records express those providers' opinions that her left-wrist and right-elbow conditions, respectively, were caused by overuse from working in November 2021. Christoffersen further contends that Dr. Kuehl's December 24, 2021, medical records, and Dr. Thomas's June 11, 2023, medical records, including her chest x-ray, are evidence of inflammation around her heart and those providers' opinions that inflammation around the heart can cause hypertension.¹⁸

¶ 27 State Fund argues that Christoffersen has failed to satisfy her burden of proof with respect to causation because she offered no expert medical opinion that causally links her conditions to her employment. State Fund contends that the exhibits are devoid of any evidence establishing that Christoffersen's duties at work were the major contributing cause of her conditions. In support of its position, State Fund cites *Chapman v. Twin City*

¹⁵ *Swan v. Mont. State Fund*, 2020 MTWCC 18, ¶ 60 (emphasis in original) (citing *Mont. State Fund v. Grande*, 2012 MT 67, ¶¶ 34-35, 364 Mont. 333, 274 P.3d 728).

¹⁶ *Grande*, 2011 MTWCC 15, ¶¶ 29-31 (*aff'd* 2012 MT 67, 364 Mont. 333, 274 P.3d 728) (citing § 39-71-407(13), MCA (2009)). *Grande* involved the 2009 Workers' Compensation Act, but the section at issue in *Grande* (-407(13), MCA) is identical in the 2021 version (-407(16), MCA).

¹⁷ *Id.* at ¶ 31.

¹⁸ Christoffersen also contends that, "Studies have shown that hypertension can be caused by inflammation." However, she did not refer to any specific studies nor offer any into evidence.

Fire Ins. Co.,¹⁹ *Dewey v. Montana Contractor Compensation Fund*,²⁰ *Langston v. MACO Workers' Compensation Trust*,²¹ and *Haines v. Montana University System*.²²

¶ 28 This Court agrees with State Fund that Christoffersen has failed to satisfy her burden of proof that her employment caused any of her medical conditions. A worker is required to prove medical causation—here, major contributing cause—through expert opinion or testimony.²³ Christoffersen has offered mostly medical records, none of which present a provider's opinion that her employment caused any of her conditions.

¶ 29 Christoffersen told Dr. Lasher, PA Neuman, and OT Miller that she was a bus driver at the time the pain in her left wrist began. Nonetheless, there is no evidence that they or any of her other providers knew such other information as how long she had been a bus driver, how many hours a week or a day she worked, what her duties were, and how long she spent a week or a day on which duties. Thus, none of Christoffersen's medical providers had the foundation to offer a persuasive opinion that Christoffersen's employment was the major contributing cause of any of her conditions.²⁴ The most any provider could do with the evidence is make a temporal argument that since Christoffersen's left-wrist pain started while she was working, it must be related to her job. However, a temporal relationship by itself is insufficient to prove causation.²⁵

¶ 30 Moreover, Christoffersen's medical providers did not even attempt to opine that her employment was the major contributing cause of any of her conditions. Indeed, only two of Christoffersen's medical providers even mentioned her work at all. On September 16, 2022, Christoffersen told OT Miller that the mechanism of her left-wrist injury was sweeping a bus in November of 2021. OT Miller documented the same in her medical notes. On August 17, 2022, Christoffersen also told PA Medler that her right-elbow problem stemmed from overuse at work in November. Based entirely on Christoffersen's report, PA Medler wrote down: "This injury seems to have stemmed from when she was overusing (sic) at work in November." Each time, the provider was merely documenting what they were told by Christoffersen, not offering their own opinion on

¹⁹ *Chapman*, 2010 MTWCC 36.

²⁰ *Dewey*, 2009 MTWCC 17.

²¹ *Langston*, 2013 MTWCC 15.

²² *Haines*, 2015 MTWCC 9.

²³ *Ford v. Sentry Cas. Co.*, 2012 MT 156, ¶¶ 44-49, 365 Mont. 405, 282 P.3d 687 (holding that causation in an injury case under the law since July 1, 1995, must be proved with medical expertise or opinion); *Kramlich v. The Mont. Municipal Interlocal Auth.*, 2014 MTWCC 21, ¶ 55 (in Findings of Fact, Conclusions of Law, and Judgment, applying *Ford* standard to medical causation in an occupational disease case).

²⁴ See *Haines*, ¶¶ 62, 67 (expert's opinion that trichloropropane or dichlorohydrin might be the chemicals that caused Petitioner's condition lacked sufficient foundation in part because expert did not know amount of those chemicals in Petitioner's workplace or how often and to what extent Petitioner was exposed to them).

²⁵ *Haines*, ¶ 64 (citation omitted).

causation. In other words, Christoffersen’s opinions did not become professional medical opinions just because they were documented by a medical professional.

¶ 31 Even if these documentations of Christoffersen’s statements could be construed as OT Miller’s and PA Medler’s opinions on causation, neither “opinion” would be persuasive for a variety of reasons. As to OT Miller, there is a legitimate concern that “sweeping a bus” may not have been an accurate description of the “mechanism of injury” in light of the fact that Christoffersen first told three other providers that she did not know the origins of her left-wrist pain.²⁶ And there is no evidence in the records this Court has from OT Miller that she considered all other contributing causes or ruled out all other potential causes of Christoffersen’s left-wrist condition.²⁷

¶ 32 For his part, PA Medler never addressed why an overuse injury to Christoffersen’s right elbow from work in November of 2021 would not start showing symptoms until April of 2022. And there is no evidence in the records this Court has from PA Medler that he ranked all other contributing causes to arrive at the conclusion that Christoffersen’s employment was the leading cause of her right-elbow condition.²⁸

¶ 33 As to Christoffersen’s contentions—that Dr. Kuehl’s December 24, 2021, medical records, and Dr. Thomas’s June 11, 2023, medical records, including her chest x-ray, are evidence of inflammation around her heart and those providers’ opinions that inflammation around the heart can cause hypertension—all are not borne out in the referenced records that this Court has from these providers. As part of her search for the cause of Christoffersen’s chest pain, Dr. Kuehl ordered a chest x-ray, which came back normal. Dr. Kuehl was specifically able to rule out pericarditis, myocarditis, and other inflammatory conditions. However, even if Christoffersen had offered evidence of inflammation around her heart, the records this Court has from Dr. Kuehl do not state anything about a connection between inflammation in her left wrist and right elbow and inflammation around her heart, let alone anything about a connection between inflammation around her heart and her hypertension.

²⁶ See *Warburton v. Liberty Nw. Ins. Corp.*, 2016 MTWCC 1, ¶¶ 68, 69 (ruling that claimant failed to satisfy her burden of proving that she sustained an industrial injury where doctors’ causation opinions were based on inaccurate medical histories and descriptions of the accident); *Dewey*, 2009 MTWCC 17, ¶ 45 (ruling Petitioner did not prove he had a compensable occupational disease where the only medical provider who opined his carpal tunnel syndrome was related to his employment based her opinions on an inaccurate description of Petitioner’s industrial accident and without access to his previous medical records).

²⁷ *Swan*, ¶ 61 (ruling that Petitioner did not meet his burden of proving he had a compensable occupational disease because his expert on causation did not consider all of the contributing causes); see *Haines*, ¶ 68 (ruling that Petitioner did not meet burden of proof as to causation in part because expert did not rule out all other potential causes of Petitioner’s condition).

²⁸ *Swan*, ¶ 61 (ruling that Petitioner did not meet his burden of proving he had a compensable occupational disease because his expert on causation did not consider all of the contributing causes or weigh them against one another, as required by -407(12)(b) and (16), MCA, and *Grande*).

¶ 34 When Christoffersen was in the hospital in North Dakota, she was given an educational handout titled “Nonspecific Chest Pain, Adult.” The handout states that chest pain can be caused by, among other things, inflammation around the heart (pericarditis), and anxiety and stress, which Christoffersen had for the greater part of 2022 as documented in a number of her medical records. The report for Christoffersen’s chest x-ray simply states, “IMPRESSION: Negative chest.” But her EKG and troponin at different intervals, led Dr. Thomas to “suspect” that her chest pain “may be related to mild pericarditis or myocarditis.” Even reading Dr. Thomas’s suspicions as “intend[ing] to signify a probability supported by some rational basis,”²⁹ nothing in the records this Court has from Dr. Thomas states that there is a link between inflammation in one part of the body and another, or a link between inflammation and hypertension.

¶ 35 This leaves only Christoffersen’s logic-based opinion that her employment was the major contributing cause of her conditions. While this Court does not doubt her subjective belief, it is insufficient to prove an occupational disease.³⁰

JUDGMENT

¶ 36 Christoffersen did not prove that she is suffering from an occupational disease for which State Fund is liable; thus, State Fund is not liable for any benefits under the Workers’ Compensation Act.

¶ 37 Pursuant to ARM 24.5.348(2), this Judgment is certified as final and, for purposes of appeal, shall be considered as a notice of entry of judgment.

DATED this 29th day of August, 2023.

(SEAL)

/s/ DAVID M. SANDLER
JUDGE

c: Cheryl Renee Christoffersen
Mark D. Meyer

Submitted: August 18, 2023

²⁹ See *Ford*, ¶ 42 (holding that the probative force of an expert medical opinion is not to be defeated by semantics) (internal quotation marks omitted) (citation omitted).

³⁰ *Kramlich*, ¶ 62; *Langston*, ¶ 29 (Petitioner failed to carry her burden of establishing she suffered a compensable occupational disease by a preponderance of the evidence where her subjective belief that conditions at work exacerbated her COPD was unsupported by the medical evidence).