

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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LESTER O. ACKERMAN,  
*Petitioner Employee,*

*v.*

THE INDUSTRIAL COMMISSION OF ARIZONA,  
*Respondent,*

COCHISE COUNTY,  
*Respondent Employer,*

ARIZONA COUNTIES INSURANCE POOL,  
*Respondent Insurer.*

No. 2 CA-IC 2015-0008  
Filed November 5, 2015

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);  
Ariz. R. P. Spec. Actions 10(k).

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Special Action - Industrial Commission  
ICA Claim No. 20142200040  
Insurer No. WC2014015560  
LuAnn Haley, Administrative Law Judge

**AWARD AFFIRMED**

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COUNSEL

Lester O. Ackerman, McNeal  
*In Propria Persona*

The Industrial Commission of Arizona, Phoenix  
By Andrew F. Wade  
*Counsel for Respondent*

Lester, Norton & Brozina, P.C., Phoenix  
By Steven C. Lester, Christopher S. Norton, & Rachel P. Brozina  
*Counsel for Respondents Employer and Insurer*

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**MEMORANDUM DECISION**

Judge Howard authored the decision of the Court, in which Presiding Judge Vásquez and Judge Kelly<sup>1</sup> concurred.

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HOWARD, Judge:

¶1 In this statutory special action, petitioner Lester Ackerman challenges the administrative law judge's (ALJ) award denying him compensation because Ackerman failed to prove his injury was caused by his employment duties. Because the ALJ did not err, we affirm.

**Factual and Procedural Background**

¶2 We review the facts in the light most favorable to sustaining the Industrial Commission's findings and award. *Polanco v. Indus. Comm'n*, 214 Ariz. 489, ¶ 2, 154 P.3d 391, 392-93 (App. 2007). On April 28, 2014, Ackerman began work at the Cochise County jail as a detention officer. In August, Ackerman filed a Worker's Report

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<sup>1</sup>The Hon. Virginia C. Kelly, a retired judge of this court, is called back to active duty to serve on this case pursuant to orders of this court and our supreme court.

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of Injury, alleging he was injured by the “[r]epeated opening of steel metal doors and also repeated climbing of stairs” between approximately April 29 and May 5. His employer’s carrier, Arizona Counties Insurance Pool, denied the claim without elaboration.

¶3 Ackerman requested a hearing on the matter. Consequently, the ALJ conducted a preliminary hearing, allowed Ackerman to produce “the report of Dr. [Santsaran] Patel after the hearing[,]” and then dismissed Ackerman’s request for hearing. Ackerman requested a review of the ALJ’s decision and submitted a letter written by Dr. Patel to Ackerman’s supervisor. The ALJ affirmed her earlier award, specifically finding that Dr. Patel did not render any “opinion relating to the applicant’s rib fractures to an industrial accident.” This special action followed. We have jurisdiction pursuant to A.R.S. §§ 23-951 and 12-120.21(A)(2). *See also* Ariz. R. P. Spec. Actions 10.

**Discussion**

¶4 Ackerman’s entire argument is composed of the following sentence: “It is important for the court to be reminded that the issue is not about length of time employed, but that the evidence presented and the facts of the case are credible.” Ackerman’s argument is entirely devoid of legal analysis or authority, and self-represented litigants are held to the same standards as an attorney. *See Old Pueblo Plastic Surgery, P.C. v. Fields*, 146 Ariz. 178, 179, 704 P.2d 819, 820 (App. 1985). Thus Ackerman’s argument is waived. *See* Ariz. R. Civ. App. P. 13(a)(7) (“An ‘argument’ . . . must contain . . . [a]ppellant’s contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which the appellant relies.”); Ariz. R. P. Spec. Actions 10(k) (Arizona Rules of Civil Appellate Procedure apply to Industrial Commission special actions); *Polanco*, 214 Ariz. 489, n.2, 154 P.3d at 393 n.2 (appellant’s failure to develop and support waives issue on appeal).

¶5 Moreover, even if Ackerman’s argument were not waived, we would uphold the award. We interpret Ackerman’s argument to be that the ALJ erred by upholding the denial of

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benefits because the denial was based on insufficient evidence, or the evidence should have been weighed differently.

¶6 On review, we defer to the ALJ's factual findings but review legal conclusions de novo. *Polanco*, 214 Ariz. 489, ¶ 6, 154 P.3d at 393-94. If the medical evidence conflicts, we must accept the ALJ's resolution of those conflicts. *Fry's Food Stores v. Indus. Comm'n*, 161 Ariz. 119, 121, 776 P.2d 797, 799 (1989); see *Gamez v. Indus. Comm'n*, 213 Ariz. 314, ¶ 15, 141 P.3d 794, 796 (App. 2006) ("we will not disturb [the ALJ's] resolution [of conflicting facts] unless it is 'wholly unreasonable'"), quoting *Ortega v. Indus. Comm'n*, 121 Ariz. 554, 557, 592 P.2d 388, 391 (App. 1979).

¶7 In order to receive compensation for a work-related injury, a worker must prove "both legal and medical causation." *Grammatico v. Indus. Comm'n*, 211 Ariz. 67, ¶ 19, 117 P.3d 786, 790 (2005). Legal causation requires, in part, that the employee prove that the injury arose "out of and in the course of [his or her] employment." *Id.* "Medical causation, in contrast, is established by showing that the accident caused the injury." *Id.* If the injury is not clearly caused by a specific accident, expert testimony is required to prove causation. *Fry's Food Stores*, 161 Ariz. at 121, 776 P.2d at 799.

¶8 Here, the ALJ found that Ackerman did not prove he sustained a compensable injury. Before the hearing, Dr. Schumacher examined Ackerman and found that Ackerman's job duties are "utterly incapable of causing a condition such as [Ackerman's injury]." Between the hearing and the ALJ's ruling, the parties submitted into the record Dr. Patel's report, which provided more medical information about the nature of Ackerman's injuries, but did not discuss how they were caused by his job duties. The ALJ specifically found Dr. Schumacher's opinion to be "more probably correct and well founded" than Dr. Patel's opinion.

¶9 On a request for review, the ALJ reiterated that the record lacked "a sufficient medical opinion to establish causation in this case." The ALJ specifically rejected Dr. Patel's opinion, found in an office note, that Ackerman's injury was a "work related injury and fall off." Because we defer to the ALJ's findings of fact, and in any event construe the facts in the light most favorable to sustaining

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the finding below, we cannot disturb the ALJ's findings. *See Gamez*, 213 Ariz. 314, ¶ 15, 141 P.3d at 796; *Polanco*, 214 Ariz. 489, ¶ 2, 154 P.3d at 392-93.

**Disposition**

¶10 For the foregoing reasons, we affirm the ALJ's award and decision upon review.