ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
DIVISION III

CA05-674

March 15, 2006

FREEMAN E. GREEN
APPELLANT

V.

COOPER STANDARD AUTOMOTIVE, INC.
APPELLEE

APPEAL FROM THE ARKANSAS WORKERS' COMPENSATION COMMISSION
[NOS. F200267, F208445]

AFFIRMED

JOHN MAUZY PITTMAN, Chief Judge

The appellant in this workers' compensation case was employed by appellee, where he sustained three compensable knee injuries. After the third surgery he was diagnosed with "athlete's knee" and total replacement of both knees was recommended. The employer refused to pay for this surgery, asserting that it was not necessitated by his compensable injuries. After a hearing, the Arkansas Workers' Compensation Commission found that appellant had failed to prove that the need for the requested treatment resulted from his compensable injury. On appeal, the appellant argues that there is no substantial evidence to support that finding. We affirm.

In determining the sufficiency of the evidence to sustain the findings of the Commission, we review the evidence in the light most favorable to the Commission's findings and affirm if the findings are supported by substantial evidence. *City of Blytheville v. McCormick*, 56 Ark. App. 149, 939 S.W.2d 855 (1997). Substantial evidence is such

relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Id*. The question is not whether the evidence would have supported findings contrary to the ones made by the Commission; there may be substantial evidence to support the Commission's decision even though we might have reached a different conclusion if we sat as the trier of fact or heard the case de novo. *Tyson Foods, Inc. v. Disheroon*, 26 Ark. App. 145, 761 S.W.2d 617 (1988). In making our review, we recognize that it is the function of the Commission to determine the credibility of the witnesses and the weight to be given their testimony. *Whaley v. Hardee's*, 51 Ark. App. 166, 912 S.W.2d 14 (1995). The Commission has the duty of weighing medical evidence and, if the evidence is conflicting, its resolution is a question of fact for the Commission. *Id.* The Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Id.*

Viewed in the light most favorable to the Commission's findings, the record shows that appellant played organized basketball on the high school and college levels and for one year professionally. Subsequently he began working for appellee Cooper Standard Automotive in 1992. He sustained a work-related injury to the ligament of his right knee in 1999, which was repaired surgically by Dr. Mullhollan. Appellant was released from medical restrictions and returned to work for appellee performing the same job. Appellant sustained a second work-related injury in December 2001; after conservative treatment proved ineffective, Dr. Bryant surgically repaired a meniscal tear in January 2002. Shortly thereafter, appellant returned to work for appellee, still performing the same job. However, on June 23, 2002, appellant sustained another compensable injury when he slipped on an oily spot and twisted his right knee. He was diagnosed with a horizontal tear of the medial

meniscus, underwent an orthoscopic medial menisectomy performed by Dr. Bryant on July 17, 2002, and again returned to work.

Appellant subsequently complained of bilateral knee pain and returned in November 2002 to Dr. Bryant, who opined that appellant suffered from "athlete's knee" with longstanding cartilage damage of many years' duration, and that he could anticipate difficulty in performing manual labor because of the pre-existing condition of his knees. Appellant then saw Dr. Mullhollan, who opined that total knee replacement was indicated but that this was not due to a job-related illness. Appellant was then referred to Dr. Bowen. Dr. Bowen's opinion differed on the issue of causation; he stated that he believed that appellant's need for further treatment was caused by his prior compensable injuries.

Appellant argues that the Commission erred because Dr. Bowen's opinion is entitled to more weight than that of Drs. Mullhollan and Bryant. We do not agree. The medical opinions relied upon by the Commission were not intrinsically incredible; it was noted that the condition requiring the replacement surgery was arthritic, while appellant's work-related injuries were tears to the ligaments. Furthermore, both Drs. Mullhollan and Bryant had previously performed surgery on appellant and had had the opportunity to observe both his compensable injuries and the healing process first-hand. We have said for over twenty years that, when the Commission chooses to accept the testimony of one physician over another where the evidence is conflicting, we are "powerless to reverse the decision." *Fletcher v. Farm Bureau Insurance Co.,* 10 Ark. App. 84, 661 S.W.2d 431 (1983). That is the situation in the present case, and we therefore affirm.

Affirmed.

GLOVER and ROAF, JJ., agree.