FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-597

CITY OF JACKSONVILLE and CITY OF JACKSONVILLE RISK MANAGEMENT,

Appellants/Cross-Appellees,

v.

ADRIAN O'NEAL,

Appellee/Cross-Appellant.

On appeal from an order of the Judge of Compensation Claims. Ralph J. Humphries, Judge.

Dates of Accident: June 26, 2002; August 28, 2014.

April 23, 2020

OSTERHAUS, J.

This workers' compensation case returns to our court after a previous remand called for additional findings. The Employer/Carrier (E/C) appeals a final compensation order entered in favor of claimant Adrian O'Neal for a cardiac injury dating from June 26, 2002. Additionally, Claimant cross-appeals the Judge of Compensation Claims' (JCC) denial of compensability for an injury dated August 28, 2014. On the 2002 claim, we reverse and remand the compensability decision because undisputed medical evidence appears to overcome the application of the

presumption in § 112.18(1)(a), Florida Statutes, as to what triggered Claimant's intermittent atrial fibrillation episodes. We affirm on the cross-appeal, however, because the time has passed for Claimant to appeal issues related to the 2014 accident. We reversed and remanded in the last appeal only as to the 2002 claim, not the 2014 claim. Consequently, the 2014 issue couldn't be revisited on remand, nor appealed for the first time now. *See, e.g.*, *Lias v. Anderson & Shah Roofing, Inc*., 867 So. 2d 599, 599 (Fla. 1st DCA 2004) (reversing because the JCC was not at liberty to reconsider issues beyond the court's specific remand instructions).

I.

Claimant was a 29-year-old corrections officer in 2002 when he experienced heart problems. When Claimant would exercise, his heart would flutter and cause him lightheadedness. At the time, Claimant was training to participate in Olympic-type competitions in track and flag football. He sought medical advice about his heart symptoms and was diagnosed with atrial tachycardia and atrial fibrillation. On June 26, 2002, Claimant underwent a cardiac catherization. As part of this procedure, his doctor intentionally induced the troublesome arrhythmias. Based on these arrhythmias, Claimant filed a workers' compensation claim, which specified June 26th as the date of accident. After a hearing in 2016, the JCC determined the accident to be compensable in view of the occupational causation presumption applicable to correctional officers in § 112.18(1)(a). While Claimant's atrial tachycardia was congenital, the JCC concluded that he had a compensable injury that could have been triggered by job-related stress. The JCC rejected the E/C's arguments that hyperthyroidism or alcohol consumption triggered the problem. The E/C appealed, and we reversed and remanded for additional findings related to the JCC's trigger-theory-based decision. *See City of Jacksonville v. O'Neal* (*O'Neal I*), 240 So. 3d 861, 862-83 (Fla. 1st DCA 2018). We asked the JCC on remand to identify the underlying condition and resulting diagnosis so that we could evaluate the scope of the E/C's potential liability on the 2002 claim. *Id.* at 862. These findings were subsequently made. The JCC recognized the diagnosis as atrial tachycardia that degenerated into atrial fibrillation and concluded that it was compensable

under the occupational presumption because job stress could have been a trigger. The E/C again appealed.

II.

Deciding this case requires us to review the JCC's application of the "trigger theory" and the occupational causation presumption in Florida's heart-lung statute, § 112.18(1)(a). When a covered officer or firefighter passes a physical examination upon entering into service, and is later disabled or killed by tuberculosis, heart disease, or hypertension, § 112.18(1)(a) presumes that the condition was contracted accidentally and in the line of duty. *See* § 112.18(1)(a), Fla. Stat. The injury is compensable even if a claimant "present[s] no evidence other than the presumption to support a work-related cause," so long as the employer/carrier doesn't rebut the presumption. *See Punsky v. Clay Cty. Sheriff's Office*, 18 So. 3d 577, 579 (Fla. 1st DCA 2009). An employer/carrier's case to overcome a § 112.18(1)(a)-presumption essentially requires a demonstration that the accident arose from a non-work-related cause or causes. *See City of Jacksonville v. Ratliff*, 217 So. 3d 183, 190 (Fla. 1st DCA 2017).

Here, we review whether the JCC properly applied the trigger theory in view of the evidence put forth by the E/C to overcome the presumption. The parties stipulated that Claimant has a non-work-caused, congenital tachycardia condition—atrial/supraventricular tachycardia with a para-hisian accessory pathway. When a statutorily covered employee has a congenital heart problem, our cases recognize that the underlying condition may still lead to a compensable injury if a work-related cause triggers the ultimate diagnosed injury; or if an unknown cause triggers the injury, § 112.18(1)(a)'s occupational presumption may be applied. *See, e.g.*, *Mitchell v. Miami-Dade Cty.* (*Mitchell II*), 186 So. 3d 65, 68 (Fla. 1st DCA 2016) (citing *City of Temple Terrace v. Bailey*, 481 So. 2d 49, 51 (Fla. 1st DCA 1985)); *see also Gonzalez v. St. Lucie Cty.-Fire Dist./Fla. Mun. Ins. Trust-Fla. League of Cities, Inc.*, 186 So. 3d 1106, 1109 (Fla. 1st DCA 2016) (reversing and remanding JCC's denial of compensability for congenital tachycardia where the trigger-cause was unknown).

The "trigger theory" of compensability requires three things: "an underlying condition, a so-called 'trigger,' and resulting heart disease." *O'Neal I*, 240 So. 3d at 862. The trigger theory analysis is two-tiered and requires the E/C to overcome § 112.18(1)(a)'s presumption for both the underlying condition (the first tier) and, if applicable, the condition's triggering event (the second tier). *See Ratliff*, 217 So. 3d at 191-92; *O'Neal I*, 240 So. 3d at 862 (questioning whether the trigger theory was appropriately applied).

The parties stipulated here that Claimant's diagnosed condition in 2002 was atrial tachycardia that degenerated into atrial fibrillation. Claimant would have episodes of atrial fibrillation where his heart would assume a fast and irregular beat. The JCC's compensation order cited Dr. Mathias's medical testimony in identifying job stress as an occupational trigger of Claimant's condition. Indeed, Dr. Mathias testified broadly that job stress could play a role in causing arrhythmias. But he dismissed this cause in Claimant's particular case. He couldn't "implicate job stress in the development of atrial fibrillation," nor isolate it as the cause of Claimant's condition. Instead, he understood Claimant's arrhythmias to be triggered by exercise: "he went into supraventricular tachycardia . . . that degenerated into atrial fibrillation at peak exercise." Dr. Quadrat likewise described Claimant to have episodic "palpitations when exercising . . . [and becoming] afraid to exercise, because when he exercised he got lightheaded. And he probably got lightheaded because he went into atrial fibrillation and his heart rate went too fast." The medical testimony repeatedly identified exercise as the cause of Claimant's atrial fibrillation: "episodic exertional arrhythmia . . . would cause the palpitations." None of this testimony was disputed by Claimant or rejected by the JCC. In fact, Claimant's own testimony supported the medical evidence:

> Q. So before you went to this 2002 electrophysiological study, how long had you been suffering rapid heart beat?
>
> A. I would say, I know for several months leading up to it, because we was getting ready for the Olympics, the Olympics is in June and we usually start practicing

around February. And during those times practicing, working out, that is when I would feel it, and then I decided to go see the doctor. The Olympics is in June so I missed the Olympics that year because I had to go get the study done. I can't remember exactly. I think that was done in May, and after that I was not able to do it, I didn't participate that year . . . .

Q. So you noticed the rapid heart beat after you had been working out?

A. Yes, while I was working out.

Q. About how many times did you notice the rapid heart beat before this study in 2002?

A. It was multiple times prior to that. That is what sent me to the doctor, to find out what was going on, because I had never experienced this before. So I didn't know what it was.

Q. Okay. And you noticed that while you were working out or training for the Olympics?

A. Right.

Finally, the atrial fibrillation episode on the stated date of accident also had a non-occupational cause. On June 26, 2002, Claimant underwent a cardiac procedure in which his doctor deliberately stressed his heart and induced the arrhythmias that had interfered with his exercise. Like the other incidents, the injury on this date stemmed from a non-work-related cause—the arrythmia-inducing medical procedure. Thus, the medical evidence consistently conflicts with the application of a statutory presumption and the conclusion that work, or job stress in the line of duty, triggered Claimant's condition.

Because the medical evidence shows that Claimant's peak exercise workouts in 2002 triggered the degeneration of his congenital heart condition into atrial fibrillation, and this evidence wasn't evaluated as a non-occupational cause that would overcome

§ 112.18(1)(a)'s presumption, we reverse and remand for further consideration. *See Punsky*, 18 So. 3d at 579 (holding when "claimant present[s] no evidence other than the presumption to support a work-related cause, the statute . . . allows rebuttal of the presumption if established by 'competent evidence'").

III.

Accordingly, we REVERSE the final compensation order as to the June 26, 2002 date of accident and REMAND for further consideration of the trigger theory in view of the exercise-related medical evidence. We AFFIRM the denial of the August 28, 2014 workplace injury as asserted in the cross-appeal.

KELSEY and NORDBY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

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