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NO. COA11-1568  
NORTH CAROLINA COURT OF APPEALS

Filed: 7 August 2012

JULIA ANN HAITHCOX, Employee,  
Plaintiff,

v.

North Carolina Industrial  
Commission  
I.C. No. 990094

FLYNT AMTEX, INC., Employer, PENN  
NATIONAL INSURANCE COMPANY,  
Carrier,  
Defendants.

Appeal by plaintiff from opinion and award entered 4 August 2011 by the North Carolina Industrial Commission. Heard in the Court of Appeals 21 May 2012.

*Pamela W. Foster, for plaintiff-appellant.*

*Cranfill Sumner & Hartzog LLP, by J. Gregory Newton and Ashley Baker White, for defendants-appellees.*

MARTIN, Chief Judge.

On 6 June 2008, employee-plaintiff Julia Haithcox sustained an admittedly compensable left knee injury at work. Plaintiff slipped on a spot of oil on the floor and fell, twisting her left knee and hitting her upper back on a machine. At the time of her injury, plaintiff had been employed as a knitter at Flynt

Amtex, Inc. (Flynt) for about eight months, although she had previously performed temporary work for Flynt.

The day of plaintiff's injury, Flynt completed a Form 19, Employer's Report of Employee's Injury, reporting that plaintiff suffered a "StrainLeft [sic] knee." Flynt paid compensation to plaintiff without contesting the claim within the statutory period provided under N.C.G.S. § 97-18(d).

Later, plaintiff filed a Form 18, Notice of Accident to Employer and Claim of Employee, dated 25 June 2009, reporting she had "slipped on a puddle of oil and fell, injuring her left knee, *back and neck*." (Emphasis added.) Thereafter, on 23 November 2009, Flynt and Penn National Insurance Company (defendants) submitted a Form 24, Application to Terminate or Suspend Payment of Compensation. Plaintiff submitted a response dated 21 December 2009, and a deputy commissioner filed an order on 19 January 2010 disapproving defendants' Form 24 application.

Subsequently, defendants filed a Form 33, Request that Claim be Assigned for Hearing. After a hearing, Deputy Commissioner J. Brad Donovan filed an opinion and award on 28 January 2011 awarding plaintiff temporary total disability compensation for the period from 1 July 2008 through 7 October

2008 and ordering defendants to pay past and future medical expenses regarding plaintiff's compensable left knee injury.

Plaintiff appealed to the Full Commission. In August 2011, the Full Commission adopted, in large part, the opinion and award of the Deputy Commissioner but also ordered defendants to pay temporary total disability compensation to plaintiff through 11 September 2009.

The following chronology of plaintiff's medical history following the compensable injury is from the unchallenged findings in the Commission's opinion and award. Following her 6 June 2008 injury, plaintiff worked the remainder of her shift. She did not list a back injury on the accident report. Plaintiff was evaluated by Dr. Seema Bhotika after work that day. Dr. Bhotika testified that plaintiff reported only a left knee injury.

On 1 July 2008, plaintiff was evaluated by Dr. Edouard Armour, an orthopedic surgeon. Dr. Armour diagnosed left knee internal derangement and ordered an MRI. The results of the MRI were normal. Dr. Armour recommended arthroscopic surgery based on plaintiff's complaints of knee pain and wrote plaintiff out of work. On 7 August 2008, plaintiff received a second opinion from Dr. Stephen Lucey regarding surgery. Dr. Lucey also

diagnosed left knee internal derangement and concurred in Dr. Armour's recommendation for a diagnostic arthroscopy.

On 3 September 2008, Dr. Lucey performed left knee arthroscopic surgery on plaintiff. During the surgery, the only pathologic finding in the knee was a large plica. "Plica is a normal shelf of tissue in the lining of a knee joint that can become enlarged and painful following trauma." Dr. Lucey removed the plica and noted there was no arthritis or other abnormality in the knee.

By 7 October 2008, Dr. Lucey was of the opinion that plaintiff might be malingering because he was "very confident" her knee had complete structural integrity. By March 2009, Dr. Lucey was diagnosing "recalcitrant pain of unknown etiology." Dr. Lucey referred plaintiff for an evaluation of her back to determine if it was the source of her ongoing knee complaints.

Meanwhile, on 20 November 2008, plaintiff was seen by Dr. Mark Phillips, an expert in pain management. Dr. Phillips testified that although plaintiff reported chronic knee pain, she did not exhibit any swelling, erythema, instability, or significant tenderness upon examination. He testified that plaintiff did not report thoracic back pain to him or to his assistant until 5 June 2009. Dr. Phillips conducted MRI scans

of plaintiff's lumbar, thoracic, and cervical spine. The lumbar results showed only minimal arthritis consistent with what would be expected of someone of plaintiff's age. The thoracic MRI was negative, and the cervical MRI showed "disc protrusions and spondylosis at C5-6 and C6-7." Dr. Phillips discharged plaintiff from his care on 19 June 2009 and recommended that she stay out of work and continue pain management treatment.

On 11 September 2009, plaintiff was seen by Dr. Max Cohen, an orthopedic surgeon specializing in treatment of the spine. Dr. Cohen found no objective physiologic explanation for plaintiff's complaints of pain. He felt her complaints were exaggerated and indicated symptom magnification. Dr. Cohen ordered a Functional Capacity Evaluation. The results of the evaluation were invalid in twelve out of twelve categories tested. On 11 September 2009, Dr. Cohen released plaintiff to return to work full duty without restrictions and assigned a five percent permanent partial disability rating to her left leg.

On 22 January 2010, plaintiff saw Dr. Gary Poehling, who based his diagnosis of complex regional pain syndrome solely on plaintiff's subjective complaints. He testified that he would not give her any work restrictions but did say he did not think

plaintiff could return to work because of her psychological problems.

On 4 April 2010, plaintiff saw Dr. Charles Burnett, a clinical psychologist with expertise in functional gastrointestinal disorders. Dr. Burnett diagnosed plaintiff with major depression and a personality disorder. He determined that the 6 June 2008 injury did not aggravate or exacerbate this disorder but that it did significantly contribute to the development of plaintiff's major depression. Dr. Burnett testified that based on plaintiff's subjective complaints, he did not think she could return to work. He noted that an individual with plaintiff's psychological symptoms is more likely to intentionally feign physical symptoms and that plaintiff had engaged in behavior consistent with malingering.

On 4 May 2010, pain management expert Dr. Hans Hansen examined plaintiff, who had been referred to him by Dr. Cohen, for regional pain syndrome. The results of his examination indicated exaggerated pain behaviors, and the results of the bone scan he ordered came back normal, ruling out complex regional pain syndrome.

On 19 May 2010, forensic psychologist Edward Landis evaluated plaintiff. He diagnosed plaintiff with personality

disorders and an adjustment disorder and testified that he did not think they were causally related to the 6 June 2008 injury.

On 28 May 2010, forensic psychiatrist Dr. Moira Artigues evaluated plaintiff. Dr. Artigues diagnosed plaintiff with a severe personality disorder and testified that plaintiff could not be diagnosed with major depressive disorder because it could not be diagnosed in the context of plaintiff's ongoing substance abuse, but that plaintiff did not meet the criteria for major depression. Dr. Artigues said malingering was a possibility and concluded that plaintiff had "feigned a pain disorder to meet some dependency needs which are characteristic of her lifelong personality disorder" and that this disorder was neither caused, aggravated nor accelerated by the 6 June 2008 injury.

Plaintiff appeals the Commission's opinion and award. Additional findings and conclusions will be discussed where they are relevant to the issues plaintiff brings forward on appeal.

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This Court reviews an opinion and award of the Industrial Commission to determine: "(1) whether there is any competent evidence in the record to support the Commission's findings of fact; and (2) whether those findings of fact support the Commission's conclusions of law." *Hardin v. Motor Panels, Inc.*,

136 N.C. App. 351, 353, 524 S.E.2d 368, 371, *disc. review denied*, 351 N.C. 473, 543 S.E.2d 488 (2000). The Commission's findings of fact are binding on appeal if they are supported by any competent evidence. *Matthews v. Petroleum Tank Serv., Inc.*, 108 N.C. App. 259, 264, 423 S.E.2d 532, 535 (1992). These findings remain binding even if there is competent evidence that supports a contrary determination. *Id.* "The Commission is the sole judge of the credibility of witnesses and the weight to be given their testimony, and its determination of these issues is conclusive on appeal." *Id.* "The Commission may accept or reject the testimony of a witness solely on the basis of whether it believes the witness or not." *Hilliard v. Apex Cabinet Co.*, 305 N.C. 593, 595, 290 S.E.2d 682, 684 (1982). "Even contradictions in the testimony go to its weight, which is for the fact-finder to resolve." *Ballenger v. ITT Grinnell Indus. Piping, Inc.*, 83 N.C. App. 55, 57, 348 S.E.2d 814, 815 (1986), *modified and aff'd by* 320 N.C. 155, 357 S.E.2d 683 (1987).

I.

In the first issue presented in her appeal, plaintiff makes four arguments essentially contending the Commission erred by relying on incompetent testimony and by failing to consider competent, corroborative evidence. We disagree.

A.

Plaintiff first asserts Dr. Artigues' testimony was an incompetent basis for the Commission's findings because it was based on communications with third persons, including plaintiff's friends and family, who were not present to be cross-examined; was biased against claimants in workers' compensation cases; and used circular reasoning. We disagree and hold Dr. Artigues' testimony to be competent.

Rule 703 of the North Carolina Rules of Evidence provides,

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

N.C. Gen. Stat. § 8C-1, Rule 703 (2011). "Testimony as to matters offered to show the basis for a physician's opinion and not for the truth of the matters testified to is not hearsay." *State v. Golphin*, 352 N.C. 364, 467, 533 S.E.2d 168, 235 (2000) (internal quotation marks omitted), *cert. denied*, 532 U.S. 931, 149 L. Ed. 2d 305 (2001).

In this case, Dr. Artigues testified that interviewing third parties was a common practice in her field; therefore, under Rule 703, the Commission did not err by considering her

testimony. See *id.* at 467-68, 533 S.E.2d at 235 (holding that, because experts in the testifying doctor's field often rely on statements from third parties to form their opinions, and the statements were not introduced for the truth of the matter asserted but to show the basis of the doctor's opinion, the evidence was admissible). Furthermore, in this case, plaintiff had the ability to cross-examine Dr. Artigues about the basis of her opinion and expose any credibility issues, ensuring that plaintiff's right to confront witnesses was not violated. See *State v. Lyles*, 172 N.C. App. 323, 327, 615 S.E.2d 890, 894 (holding that the defendant's right to confront his accuser was not violated because he had the opportunity to cross-examine the expert witness about the basis of his testimony), *appeal dismissed*, 360 N.C. 73, 622 S.E.2d 625 (2005).

Plaintiff also contends Dr. Artigues' testimony should be discarded because she is allegedly biased against claimants in workers' compensation cases and because her opinion was "circular reasoning," as it was based on her opinion that plaintiff had not suffered an injury to her knee. However, "[t]he Commission is the sole judge of the credibility of witnesses and the weight to be given their testimony . . . ." *Matthews*, 108 N.C. App. at 264, 423 S.E.2d at 535. Because it

was the Commission's duty to judge how much weight to allot Dr. Artigues' testimony, it would have necessarily considered any bias in its credibility determinations. Furthermore, the Commission "may accept or reject the testimony of a witness, *either in whole or in part*, depending solely upon whether it believes or disbelieves the same." *Cooper v. BHT Enters.*, 195 N.C. App. 363, 369, 672 S.E.2d 748, 754 (2009) (emphasis added) (internal quotation marks omitted). Therefore, the Commission was entitled to accept only portions of Dr. Artigues' testimony.

B.

Second, plaintiff suggests that testimony from Dr. Cohen, a spine specialist, is incompetent because he is not a knee specialist. However, "[a] medical witness need not, as a matter of law, be a specialist in a particular subject to give an opinion on it." *Robinson v. J.P. Stevens & Co.*, 57 N.C. App. 619, 624, 292 S.E.2d 144, 147 (1982). "It is enough that, through study or experience, or both, he is better qualified than the jury to form an opinion on the particular subject." *Ballenger v. ITT Grinnell Indus. Piping, Inc.*, 80 N.C. App. 393, 399, 342 S.E.2d 582, 586 (internal quotation marks omitted), *opinion withdrawn in part by* 83 N.C. App. 55, 348 S.E.2d 814 (1986), *modified and aff'd by* 320 N.C. 155, 357 S.E.2d 683

(1987); see also *Strickland v. Cent. Serv. Motor Co.*, 94 N.C. App. 79, 84, 379 S.E.2d 645, 648 (holding that a neurologist could testify about a particular ruptured aneurysm even though he was not a specialist on that condition), *disc. review denied*, 325 N.C. 276, 384 S.E.2d 530 (1989). Plaintiff's remaining assertions related to Dr. Cohen's testimony attack his credibility, and we therefore do not address them. See *Matthews*, 108 N.C. App. at 264, 423 S.E.2d at 535 ("The Commission is the sole judge of the credibility of witnesses and the weight to be given their testimony, and its determination of these issues is conclusive on appeal.").

C.

Third, plaintiff asserts "the Commission failed to consider competent evidence which corroborated [her] testimony" regarding her alleged back injury, apparently because the Commission did not recite all of the corroborative evidence.

Plaintiff specifically contends the Commission failed to consider that her supervisor, Joe Goodwin, saw the red mark on her back on 6 June 2008 where she had fallen against the machine and that her medical report from 17 June 2008 contains a note by Phyllis Trexler, a nurse, that plaintiff had "hit machine with her back." However, the Commission expressly found that

plaintiff hit her back on the machine, finding that plaintiff "showed [Mr. Goodwin] a red spot on her back where she fell against the machine" and that "[w]hile [p]laintiff's upper back *did impact the machine in one spot when she fell*, she did not sustain an injury to her neck or mid or upper back as a result of that incident." (Emphasis added.)

She also contends the Commission failed to consider evidence indicating she had reported a back injury to Dr. Bhotika, a doctor at Kernodle Clinic who saw plaintiff the day of her injury. However, if the Commission's opinion and award affirms with some modifications the opinion and award of the deputy commissioner, the Commission is not required to restate all the findings of fact from the deputy commissioner's opinion and award that need no modification. *Polk v. Nationwide Recyclers, Inc.*, 192 N.C. App. 211, 218, 664 S.E.2d 619, 624 (2008). Here, the Full Commission's opinion and award "AFFIRMS with some modifications the Opinion and Award of the Deputy Commissioner." Thus, "[t]he Full Commission's opinion is not an order meant to stand on its own." *See id.* The deputy commissioner's opinion and award found that plaintiff testified she reported a back injury to Dr. Bhotika the day of injury, that Dr. Bhotika denied that plaintiff had reported a back

injury, and that the deputy commissioner found Dr. Bhotika's testimony on this point more credible. The Commission further found that "[p]laintiff did not report an injury to her back to Dr. Bhotika, and her testimony to the contrary is not accepted as credible." There is no merit to plaintiff's assertion that the Commission was required to make a finding regarding statements she appears to contend discredit Dr. Bhotika's testimony elicited during cross-examination of Dr. Bhotika.

Plaintiff similarly contends the Commission failed to consider that Sharilyn Ward, a nurse case coordinator, verified that plaintiff had raised the complaint of pain between her shoulder blades on her second or third visit, although the reports from Guilford Pain Management did not reflect it. However, the Commission expressly found plaintiff reported "thoracic pain" to Dr. Phillips or Michael Love, then a physician assistant at Guilford Pain Management, "following an incident at home when she experienced popping between her shoulder blades."

Plaintiff also contends the Commission failed to consider Ms. Trexler's testimony that "the Pain Center had asked if they could treat [plaintiff's] back" and a report dated 12 December 2008, completed by Ms. Trexler, noting, "needs auth to treat for

her back." However, the deputy commissioner's opinion and award made a finding regarding a December 2008 report by Ms. Trexler stating "the Pain Center had asked if they could treat her back." Plaintiff also contends the Commission failed to consider Ms. Ward's testimony that Dr. Phillips had explained that plaintiff's pain in her back was related to her left knee and that no treatment or tests were ordered for her back pain and a statement by Dr. Phillips that plaintiff's back pain was "related to her left knee." However, the deputy commissioner's opinion and award made a finding detailing plaintiff's treatment with Dr. Phillips for low back pain. Specifically, the finding stated that "Dr. Phillips opined that the injury to plaintiff's knee was more likely than not a significant contributing factor to the pain in [plaintiff's] lower back."

Plaintiff also contends the Commission failed to consider a questionnaire she completed during her first visit at Guilford Pain Management on 20 November 2008 on which she indicated she had "some" upper and low back pain, a medical report from Guilford Pain Management 12 December 2008 indicating plaintiff sought treatment for her back, and medical reports corroborating that she discussed her back pain with Mr. Love. However, in addition to its comprehensive findings related to plaintiff's

treatment at Guilford Pain Management, the Commission specifically recognized "plaintiff's complaints" of back pain, finding that, "[w]ith regard to the low back, [p]laintiff's complaints are not consistent with the objective findings on MRI, nor are they consistent with those of someone who is aggravating degenerative changes in the lumbar spine by use of an altered gait" and that "[p]laintiff's complaints of neck pain and lower, middle and upper back pain are not causally related to the June 6, 2008 injury." Because the Commission expressly acknowledged plaintiff's complaints of back pain, there is no merit to plaintiff's contention that the Commission discounted or disregarded evidence without considering it.

D.

Finally, as to the first issue, plaintiff asserts "the Industrial Commission failed to consider and acknowledge that the physicians corroborated that she suffers from legitimate pain, both before and after their receipt of information on her psychiatric condition," including Drs. Phillips, Poehling, Burnett, Cohen, and Landis. However, the Full Commission's opinion and award states that these five physicians' depositions were part of the evidence of record and specifically refers to each physician in its findings of fact. It is obvious the

Commission considered that evidence and plaintiff's contrary assertion is entirely without merit. See *Pittman v. Int'l Paper Co.*, 132 N.C. App. 151, 157, 510 S.E.2d 705, 709 (holding that, "[a]lthough the Commission did not explicitly find that it rejected the opinions expressed by [a doctor] in his first deposition," because "its opinion and award demonstrate[d] that it accepted the testimony given by [the doctor] in his second deposition, and thereby rejected the contrary testimony found in [the doctor's] first deposition," there was no merit to the plaintiff's argument that the Commission failed to consider all the evidence before it), *disc. review denied*, 350 N.C. 310, 534 S.E.2d 596, *aff'd per curiam*, 351 N.C. 42, 519 S.E.2d 524 (1999).

## II.

In her second issue on appeal, plaintiff argues that the Full Commission erred by determining her disability ended on 11 September 2009. She appears to contend the Commission focused on whether there was a "structural defect" in her knee in determining she was no longer disabled as of 11 September 2009 instead of focusing on her diminished capacity to earn money as was required under N.C.G.S. § 97-2(9). She argues that, based on the testimony of Drs. Phillips, Poehling, Burnet, and Levitt,

she is "physically and mentally unable to work and it would therefore be futile for [her] to look for work." We reject her argument.

Plaintiff repeats her assertion that Dr. Cohen's testimony was incompetent evidence, an assertion we again reject for the reasons previously stated. Plaintiff further argues that Dr. Cohen's testimony that plaintiff had no restriction on her work ability was based on his opinion that she had no structural defect in her knee, and therefore could not support a finding that plaintiff was disabled under N.C.G.S. § 97-2(9). Plaintiff suggests the Commission's conclusion that plaintiff is no longer disabled is "based on an incorrect application of the law."

"Disability is defined by the Act as impairment of one's earning capacity rather than physical disablement." *Peoples v. Cone Mills Corp.*, 316 N.C. 426, 434, 342 S.E.2d 798, 804 (1986); see N.C. Gen. Stat. § 97-2(9) (2011). "Under the Work[ers'] Compensation Act disability refers not to physical infirmity but to a diminished capacity to earn money." *Peoples*, 316 N.C. at 434-35, 342 S.E.2d at 804 (internal quotation marks omitted). "The burden is on the employee to show that he is unable to earn the same wages he had earned before the injury, either in the

same employment or in other employment." *Russell v. Lowes Prod. Distrib'n*, 108 N.C. App. 762, 765, 425 S.E.2d 454, 457 (1993).

The employee may meet this burden in one of four ways: (1) the production of medical evidence that he is physically or mentally, as a consequence of the work related injury, incapable of work in any employment, (2) the production of evidence that he is capable of some work, but that he has, after a reasonable effort on his part, been unsuccessful in his effort to obtain employment, (3) the production of evidence that he is capable of some work but that it would be futile because of preexisting conditions, i.e., age, inexperience, lack of education, to seek other employment, or (4) the production of evidence that he has obtained other employment at a wage less than that earned prior to the injury.

*Id.* (citations omitted).

Here, the Commission concluded "[p]laintiff failed to prove by a preponderance of the evidence that as a consequence of the work-related injury she has been incapable of work in any employment since September 11, 2009." In support of this conclusion, the Commission found that, "[w]ith regard to her compensable left knee injury, [p]laintiff regained the capacity to earn the same wages she was earning at the time of the injury in the same employment on September 11, 2009" and that "Dr. Cohen released [p]laintiff to return to work full duty without restrictions on September 11, 2009 and assigned a 5 percent

permanent partial disability rating to the left leg.” Contrary to plaintiff’s suggestion, these findings relate specifically to plaintiff’s wage-earning capability. These findings and the Commission’s conclusion that defendants had proven that plaintiff’s back and psychiatric conditions were not causally related to her 6 June 2008 injury, support the Commission’s conclusion that plaintiff failed to prove under *Russell* that, as a result of her work-related injury, she has been incapable of work in any employment since 11 September 2009.

Plaintiff’s remaining arguments on this issue relate to the credibility of several doctors. Plaintiff recites excerpts from depositions of these doctors she contends support her assertion that she suffers from compensable injuries. In doing so, plaintiff fails to recognize that our review is limited to determining whether there is competent evidence to support the Commission’s findings and conclusions of law. See *Hardin*, 136 N.C. App. at 353, 524 S.E.2d at 371; *Matthews*, 108 N.C. App. at 264, 423 S.E.2d at 535. Although there is evidence in the record contrary to the Commission’s findings, there is also competent evidence in the record to support the Commission’s findings and conclusion of law that plaintiff’s disability ended

on 11 September 2009 and that any disability following that date was not caused by her compensable injury.

III.

By her final issue on appeal, plaintiff argues the Commission erred "in the application of law as it applies to causation of plaintiff's chronic pain condition, back conditions[,] and psychological conditions."

As we have noted, only when there is a complete lack of evidence to support the findings of fact may this Court set them aside. *Young v. Hickory Bus. Furn.*, 353 N.C. 227, 230, 538 S.E.2d 912, 914 (2000). Therefore, if there is competent evidence in the record that reasonably supports the Commission's findings of fact and conclusions of law, we may not reverse solely due to the presence of contrary evidence.

Plaintiff first asserts that her "chronic pain is caused by her compensable knee condition" and therefore suggests that treatment for her chronic pain is compensable. However, the Commission found "Dr. Cohen found no objective physiologic explanation for [p]laintiff's complaints of pain, which he felt were exaggerated during the exam and indicated symptom magnification"; "Dr. Cohen released [p]laintiff to return to work full duty without restrictions on September 11, 2009"; Dr.

Artigues was unable to rule out malingering and ultimately concluded that [p]laintiff had feigned a pain disorder"; "[p]laintiff's complaints of severe left knee pain after [7 October 2008] were intentionally feigned by [p]laintiff and are not accepted as credible. The competent, credible medical evidence establishes that [p]laintiff's ongoing complaints of left knee pain are not causally related to the injury of June 6, 2008"; and "[p]laintiff does not suffer from complex regional pain syndrome as a result of the June 6, 2008 accident." These findings amply support the Commission's conclusion that "[d]efendants have proven that as of September 11, 2009, [p]laintiff was no longer disabled due to the June 6, 2008 accident and compensable knee injury . . . ." Plaintiff's only argument on this point asks this Court to reassess the Commission's credibility determinations, which we are not permitted to do. See *Matthews*, 108 N.C. App. at 264, 423 S.E.2d at 535.

Next, plaintiff contends her back injury was compensable. On this issue, the Commission found that

4. . . . Plaintiff's testimony that she told [the knitting department manager] that she had injured her back and that she was not given enough time to complete the incident report is not accepted as credible.

5. . . . Plaintiff did not report an injury to her back to Dr. Bhotika [on 6 June 2008], and her testimony to the contrary is not accepted as credible.

. . . .

12. Plaintiff did not report low back pain to Dr. Phillips or his PA, Michael Love, until March 25, 2009 . . . . She did not report thoracic back pain to Dr. Phillips or PA Love until June 5, 2009 . . . . Plaintiff's testimony that she indicated on her initial pain diagram [on 20 November 2008] that she had back pain but was told by PA Love to throw it away is not accepted as credible.

. . . .

15. . . . According to Dr. Cohen, [p]laintiff's complaints regarding her back were not consistent with the MRI results. .

. . . .

These findings support the Commission's conclusion that "[d]efendants have proven by the greater weight of the competent, credible medical evidence that [p]laintiff's back . . . condition[ is] not causally related to the June 6, 2008 injury. . . ." Again, because the Commission's conclusion is supported by the findings and competent evidence, and we may not review the Commission's credibility determinations, *see id.*, there is no merit to plaintiff's contentions on this point.

Finally, plaintiff contends that her compensable injury resulted in depression and emotional disturbances which caused

her disability such that total disability benefits should be allowed. On this issue, the Commission made the following findings:

19. . . . According to Dr. Burnett, [p]laintiff's June 6, 2008 injury did not aggravate or exacerbate her preexisting personality disorder . . . . Dr. Burnett conceded that [p]laintiff has engaged in a number of behaviors consistent with malingering and/or intentional feigning or exaggerating of her symptoms. . . .

. . . .

22. . . . [Dr. Landis] also diagnosed Plaintiff with Cluster B personality disorders and an adjustment disorder, neither of which he felt were causally related to the June 6, 2008 injury.

23. . . . [Dr. Artigues] did not agree with Dr. Burnett's diagnosis of major depressive disorder . . . and ultimately concluded that [p]laintiff had feigned a pain disorder to meet some dependency needs which are characteristic of her lifelong personality disorder, which was neither caused, aggravated nor accelerated by the June 6, 2008 injury.

. . . .

28. Based upon the greater weight of the expert medical testimony, the Full Commission finds that [p]laintiff does not suffer from major depression or any other psychological disorder that was caused, aggravated or accelerated by the June 6, 2008 injury by accident. Plaintiff suffers from a myriad of personality disorders which pre-existed the date of injury and were

neither caused, aggravated nor accelerated  
by the June 6, 2008 injury. . . .

These findings amply support the Commission's conclusion that, "[d]efendants have proven by the greater weight of the competent, credible medical evidence that [p]laintiff's . . . psychiatric conditions are not causally related to the June 6, 2008 injury," and we may not reassess the Commission's weighted credibility determinations. *See id.*

Affirmed.

Judges ELMORE and HUNTER, JR. concur.

Report per Rule 30(e).