BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H404760

BRUCE K. GOLDEN, EMPLOYEE **CLAIMANT**

CITY OF McCRORY,
SELF-INSURED EMPLOYER **RESPONDENT**

ARK. MUN. LEAGUE,
THIRD-PARTY ADM'R **RESPONDENT**

OPINION FILED JUNE 18, 2025

Hearing before Chief Administrative Law Judge O. Milton Fine II on May 2, 2025, in Jonesboro, Craighead County, Arkansas.

Claimant represented by Mr. Gary Davis, Attorney at Law, Little Rock, Arkansas.

Respondents represented by Ms. Mary K. Edwards, Attorney at Law, North Little Rock, Arkansas.

STATEMENT OF THE CASE

On May 2, 2025, the above-captioned claim was heard in Jonesboro, Arkansas. A prehearing conference took place on March 3, 2025. The Prehearing Order entered on that date pursuant to the conference was admitted without objection as Commission Exhibit 1. At the hearing, the parties confirmed that the stipulations, issue, and respective contentions were properly set forth in the order.

Stipulations

At the hearing, the parties discussed the stipulations set forth in Commission Exhibit 1. They are the following, which I accept:

1. The Arkansas Workers' Compensation Commission (the "Commission") has jurisdiction over this claim.

2. The employee/self-insured employer/third-party administrator relationship existed among the parties on June 17, 2023, when Claimant suffered compensable injuries to his right shoulder and left knee by specific incident.

3. Respondents accepted the above injuries as compensable and paid benefits pursuant thereto.

Issue

At the hearing, the parties discussed the issue set forth in Commission Exhibit 1. The following was litigated:

1. Whether Claimant is entitled to additional treatment of his stipulated compensable injuries in the form of surgery recommended by Dr. Joel Smith.

All other issues have been reserved.

Contentions

The respective contentions of the parties read as follows:

Claimant:

1. Claimant contends that he sustained admitted compensable injuries to the left knee and right shoulder. Surgical intervention has been recommended for these body parts; but such has been denied by Respondents.

Respondents:

1. Respondents contend that Claimant has received all appropriate medical care to which he is entitled. He saw Dr. Spencer Guinn for his right shoulder and left knee. On March 25, 2024, Dr. Guinn returned Claimant to full duty. In a follow-up dated May 20, 2024, Guinn placed Claimant at maximum medical improvement and assigned him a zero percent (0%) impairment rating for both his shoulder and his knee. The doctor did not recommend further treatment to either body part. Of note, Claimant has pre-existing issues.
2. Claimant changed physicians to Dr. Smith, who on October 7, 2024, immediately recommended surgery for both the left knee and right shoulder after only seeing him one time. Respondents denied further treatment after this visit.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of Claimant and to observe his demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations set forth above are reasonable and are hereby accepted.

3. Claimant has proven by a preponderance of the evidence that he is entitled to additional treatment of his stipulated compensable left knee and right shoulder injuries in the form of surgery and related treatment recommended by Dr. Joel Smith.

ADJUDICATION

Summary of Evidence

Claimant was the sole hearing witness.

In addition to the Prehearing Order discussed above, the exhibits admitted into evidence in this case were Claimant's Exhibit 1, a compilation of his medical records, consisting of one index page and 47 numbered pages thereafter; Respondents' Exhibit 1, another compilation of Claimant's medical records, likewise consisting of one index page and 25 numbered pages thereafter; and Respondents' Exhibit 2, non-medical records related to this claim, consisting of one index page and seven numbered pages thereafter.

Adjudication

Introduction. As the parties have stipulated—and I have accepted—Claimant sustained compensable injuries to his left knee and right shoulder on June 17, 2023. In this proceeding, he is seeking additional treatment of them. This would come in the form of surgery by Dr. Smith, who has recommended that he undergo these procedures. Respondents, on the other hand, have denied that either operation is reasonably and necessary.

Evidence. In his testimony, Claimant described how his compensable injuries occurred. A law enforcement officer, Claimant was at a house, attempting to apprehend a suspect. He related:

> Well, around the corner of the house—the corner of the house, [I] go to the back of the house, there is a porch there. Instead of the door, she had a sheet hanging up. As I approached that sheet, I could hear somebody moving around there. It sounded like it went back inside the house. So at that time, I pulled my taser out, pulled the curtain back, and looked inside real carefully and stepped up on the porch. And the lady that complained—the complainant was standing inside, kind of to the left of the kitchen table. And I did like this (indicating) and she pulled it over to my right-hand side. And at that time, he came out to the table. And I had to go back and review the video . . . because I was knocked of conscious when I fell. And in the camera footage, he went out to—started out the door. I went around the table, and I deployed my taser as I was going out the door. And it was like a two-block foundation of that house, which is about 18, 20 inches [high]. And I don't know if I missed the step or just tripped. But when I fell, I tased him as I was going out the door. And I tripped and fell down on my right elbow, which injured my shoulder and my left knee, and I also had a concussion with a big knot on the back of my head. And my [body] camera, I landed on it, knocked the breath out of me and knocked me out. When I come too, I could just barely see daylight. First thing I heard behind it was a lady screaming, "Are you OK? Are you OK?"

Initially, Claimant was taken to the emergency room at White County Medical Center. The record of his June 17, 2023, visit to the hospital shows that presented with, inter alia, pain in his left knee and right shoulder. The x-ray of his knee revealed "[n]o acute findings"; and his shoulder x-ray showed only degenerative changes of his glenohumeral and acromioclavicular joints, with no fracture or dislocation.

Thereafter, Claimant visited the McCrory Family Clinic on four occasions, from June 20, 2023, to October 10, 2023. The reports of those visits show that Claimant still

was complaining of left knee and right shoulder pain from his work-related fall. Multiple physical therapy sessions on the shoulder resulted in no improvement.

On December 7, 2023, he underwent an MRI of his right shoulder. Per Dr. Bill Rice, who was the radiologist who initially reviewed the MRI, and Dr. Guinn, who later reviewed it but termed the study a "poor quality" one, it showed him to have not only edema in the shoulder, but a suspected SLAP tear. While Guinn wrote that Claimant "may" have such a tear, Rice opined that its existence was "probable." Dr. Guinn referred Claimant for shoulder injections by Dr. Morgan Benefield. After seeing him again on January 26, 2024, Dr. Guinn wrote:

> For the right shoulder, he had 5 or 6 days of great relief, but then the pain has returned. We discussed that unfortunately with that sort of relief, he will most likely require surgery. He had a very poor quality non-contrast study MRI scan of his shoulder, so we also discussed the possibility of obtaining an MR arthrogram of the right shoulder.

As for the left knee, Dr. Guinn stated that Claimant had a "probable medial meniscus tear." Noting that that Claimant had only had x-rays of the knee, the doctor stated that he and Claimant discussed his undergoing and MR arthrogram of the knee.

On February 19, 2024, Claimant underwent a second MRI of his right shoulder. Per Dr. Ezekiel Shotts, who read the MRI, it showed Claimant to have a "[l]ow grade partial articular surface infraspinatus tendon tear[.]" That same day, Claimant also underwent an MRI of his left knee. Dr. Christopher Ryen authored the MRI report and wrote that the test showed not only "trace" effusion in the joint, but also "[f]ree edge fraying/tearing of the medial meniscus posterior horn with mild extrusion of [the] medial meniscus body."

Claimant returned to Dr. Guinn on February 23, 2024. The doctor reviewed the shoulder MRI and wrote that it "reveal[ed] arthrosis of the AC joint . . . [with] very low-grade partial-thickness articular-sided tearing of the infraspinatus." Likewise, he reviewed the knee MRI and found that it reflected "mild fraying of the medial meniscus . . . [with] no evidence of tearing . . . [but] mild chondrosis of the medial compartment." Dr. Guinn's report includes the following:

> **Impression & Recommendations:**
> ASSESSMENT
> 1. Right shoulder pain
> 2. Left knee pain
>
> PLAN
> I had a lengthy discussion with the patient regarding his findings. On the knee, he has some mild fraying and some mild pre-existing arthritis, so this appears to be nonsurgical. I have discussed treatment options. He would like to receive a left knee injection.
>
> For his right shoulder, the injury appears to be isolated to the AC joint and actually the edema has improved since his original film. I recommended that we continue to treat this non-surgically and he agrees. I will send him back to physical therapy 3 times a week plus a daily home program. He will follow up in 1 month.

In a follow-up visit with Dr. Guinn on March 25, 2024, per the report thereof, the doctor noted the following:

> His shoulder is doing good. He had to avoid doing the stretching or anything out. He can work around it, but he has a little range of motion, but he still has soreness in the muscle. Picking something up very heavy aggravates it. Therapy is still helping with his range of motion, but it is not keeping him from hurting. He had 4 weeks of physical therapy 3 days a week and would like 1 more day left. The patient states that he had an arthritis treatment this morning.
>
> His left knee felt better a couple of days after the injection. He rates it as 2 currently. He can feel a pulling sensation when he walks downhill.

. . .

IMPRESSION & RECOMMENDATIONS
ASSESSMENT
1. Workman's compensation injuries.
PLAN
He is still having difficulty with lifting anything heavy overhead. Unfortunately, due to his work schedule, therapy is very difficult for him to attend. He will go one more time, switch over to a home program. He will do these daily on his own.

. . .

ASSESSMENT
2. Left knee pain.
We had a discussion about options. I do not appreciate any surgical indications for the knee. He did have some pre-existing arthritis. He is on systemic arthritis therapy. He would like to have another injection.

On May 20, 2024, Claimant went to Dr. Guinn for the last time. That report reads in pertinent part:

History of Present Illness:
Bruce Golden is a 59-year-old male who is here for follow-up of his work-related injuries to his right shoulder and left knee. At his last visit 2 months ago, I injected his right shoulder.

The patient's shoulder condition remains unchanged, limiting his ability to engage in activities such as throwing a baseball or washing his hair.

The patient reports that the previous injection administered to his knee did not alleviate his pain, and he continues to experience pain the following day. He experiences pain when moving his foot to the left or right side, particularly when his foot is hit by an object.

. . .

Imaging
MRI of the right shoulder shows arthritis at the end of the collar bone and mild inflammation of the rotator cuff. MRI of the left knee shows a little bit of arthritis and a frayed spot on the meniscus, but no tear.

> **Impression & Recommendations**
> ASSESSMENT
> Work-related injuries to the right shoulder and left knee.
>
> PLAN
> The patient's condition has unfortunately plateaued, with no significant improvement observed. Prior to this injury, he was under the care of a hand surgeon for his rheumatoid arthritis and was scheduled for surgery. However, due to his ongoing treatment for his workers' compensation injury, he opted for a release. Currently, the patient is at full duty and is at maximum medical improvement. His impairment can be calculated separately.
>
> . . .
>
> According to the American Medical Consultation [sic] Guides to the Evaluation of Permanent Impairment for [sic] 4th edition, the patient is deemed fit for full duty at his workplace. He has a 0 percent impairment rating for his shoulder and knee injuries.

Claimant's testimony was that he has undergone injections to both his left knee and his right shoulder. However, only his injured shoulder has been addressed in physical therapy sessions. His testimony, which is corroborated by the medical records highlighted above, is that he is still experiencing pain in both and knee and in the shoulder. Claimant described feeling a "grinding" sensation in both of them. His knee discomfort is so problematic that he feels pain even when sitting in a recliner and elevating his left leg.

According to Claimant, he anticipated both his knee and his shoulder being treated surgically while he was under Dr. Guinn's care. But that did not end up happening.

As a result, Claimant sought a one-time change of physician from the Commission. This was granted in an Order entered on September 19, 2024. Pursuant to this order, Claimant saw Dr. Smith on October 7, 2024. Claimant related that he brought his medical records—including his MRIs—with him to that appointment for Smith to review. The report of that visit reads in pertinent part:

> Chief Complaints:
> 1. Right Shoulder Pain
> 2. Left Knee Pain
>
> HPI: This is a 59 year old male who:
> 1. is right hand dominant and is being seen for a chief complaint of shoulder pain, involving the right shoulder. This occurred in the context of an injury at work on 06/17/2023 (Police officer chased after someone and fell off a two foot drop) and has been treated with activity modification, muscle relaxant, NSAIDs, naproxen, physical therapy, and subacromial steroid injection. He has had no surgical procedures. The shoulder pain occurs randomly. The shoulder pain is described as sharp and popping and associated with arm weakness, difficulty sleeping, worse with overhead activity, and worse with forward elevation. The shoulder pain was/is 8 out of 10 on an average day. He reports often functional limitations.
> 2. presents for left knee pain located on the front of the knee. Symptoms began as a result of an injury at work on 06/17/2024 (Chasing a guy and fell off a 2 foot ledge). The pain constantly occurs and is aching and dull. In addition, the patient rates their pain as 3 out of 10 on an average day. The pain is associated with stiffness and the knee giving way. He has been treated with steroid injection(total number of injections = 2), rest, ice, and elevation, muscle relaxants, and NSAIDs. He has had no surgical procedures. He has had the following diagnostic studies: MRI. He reports often functional limitations.
>
> . . .
>
> Special:
> Right Shoulder: AC cross chest: painful, Hawkin's impingement: positive, and Neer impingement: positive

. . .

Special:
Left Knee: Apley Grind Test: positive medial

. . .

MRI Interpretation Knee
MRI: left MRI Knee
MRI of the left knee was reviewed, demonstrating the following findings: Free edge fraying of the medial meniscus w extrusion. Low grade chondromalacia. Remaining exam is normal

. . .

MRI Interpretation Shoulder
MRI: right MRI Shoulder
MRI of the right shoulder was reviewed, demonstrating the following findings: Partial thickness infraspinatus tear. AC joint arthrosis

Impression/Plan:
1. Medial Meniscus Tear, Acute, Left
   Other tear of medial meniscus, current injury, left knee, initial encounter (S83.242A)
   Distributed on the left knee joint and left knee
   Pain Intensity: 3.0 – 3/10 Pain

   . . .

   After counseling the patient, we decided on the following plan for the LEFT KNEE: Partial Meniscectomy

   . . .

   He has tried an injection and PT without improvement or resolution of his pain. At this point, I think he is a candidate for a knee scope with PMM.

. . .
2. Rotator Cuff Tear, Partial, Right
   Incomplete rotator cuff tear or rupture of right shoulder, not specified as traumatic (M75.111)

> Associated diagnoses: Acromioclavicular Arthritis and Shoulder Impingement
> Pain Intensity: 8.0 – 8/10 Pain
>
> . . .
>
> After counseling the patient, we decided on the following plan for the RIGHT shoulder: Athroscopic subacromial decompression and Mumford Procedure
>
> . . .
>
> This has been going on for over a year without resolution with injections and PT. He has AC joint arthritis, but did not have pain from that until this injury. He has had an exacerbation of the arthritis and inflammation from his injury now resulting in pain. At this point, I recommend a right shoulder scope with SAD/DCR and possible RCR depending on intra-operative evaluation. I do believe his AC joint pain is from his injury last year.

Asked about Dr. Smith's above recommendations that he undergo surgery on both his left knee and right shoulder, Claimant testified that he agrees with both of those recommendations and is willing to undergo those procedures. He elaborated:

> I can't function. I can't do anything that I need to do around the house in the way it's been. Things that need to be done but I can't do it myself. I can't afford to pay for it. I'm not—I don't have any income except for my retirement check.

Because of his shoulder issues, Claimant has limitations concerning how much he can lift with it. When lying on his back, his right upper extremity is practically useless. Walking hurts his left knee. Placing pressure on it causes it to hurt. To treat his symptoms, Claimant relies on over-the-counter pain medications, along with muscle relaxers that he has been prescribed for his back.

Claimant's understanding is that Dr. Smith took him off work. He is now simply waiting for approval to have these two operations. It is his belief that without these

surgeries, he will be unable to resume his duties as a law enforcement officer. He reasoned that his duty belt and other equipment would be too difficult to carry in his current condition, and that physical activities such as handling a suspect would not be physically possible. Claimant denied suffering any other injury that has caused his current left knee and right shoulder conditions.

Discussion. Claimant's testimony is that he wishes to have the two operations that Dr. Smith has recommended to treat his left knee and right shoulder issues. I credit this along with his other testimony as outlined above. A claimant's testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of a witness' credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id*. In so doing, 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 that it deems worthy of belief. *Id*.

Arkansas Code Annotated Section 11-9-508(a) (Repl. 2012) states that an employer shall provide for an injured employee "such medical . . . services . . . as may be reasonably necessary in connection with the injury received by the employee." *See Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). The claimant must prove by a preponderance of the evidence that the subject medical treatment is reasonable and necessary. *Id.*; *Geo Specialty Chem. v. Clingan*, 69 Ark.

App. 369, 13 S.W.3d 218 (2000). The standard "preponderance of the evidence" means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp*., 212 Ark. 491, 206 S.W.2d 442 (1947). What constitutes reasonable and necessary medical treatment is a question of fact for the Commission. *White Consolidated Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001); *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001).

In order to prove his entitlement to the requested surgeries and related treatment, Claimant must prove that they are causally related to his stipulated compensable knee and shoulder injuries. *See Pulaski Cty. Spec. Sch. Dist. v. Tenner*, 2013 Ark. App. 569, 2013 Ark. App. LEXIS 601. Both Drs. Guinn and Smith have opined that Claimant's left knee and right shoulder problems—which are well-documented in their reports in evidence—relate to the stipulated work-related June 17, 2023, incident when Claimant fell while attempting to apprehend a suspect. Per *Wal-Mart v. Van Wagner*, 337 Ark. 443, 990 S.W.2d 522 (1999), medical evidence is not ordinarily required to prove causation; but if a medical opinion is offered on causation, the opinion must be stated within a reasonable degree of medical certainty. Ark. Code Ann. § 11-9-102(16)(B) (Supp. 2023). But the Arkansas Supreme Court in *Freeman v. Con-Agra Frozen Foods*, 344 Ark. 296, 40 S.W.3d 760 (2001) stated: "This court has never required . . . that the magic words 'within a reasonable degree of medical certainty' even be used by the doctor." Instead, the opinion will pass muster if the opinion language used by the physician goes beyond mere possibilities and establishes the causal

connection between the injury/condition in question and Claimant's work. Both Guinn and Smith in their reports *supra* met this standard.

But the opinions of the two doctors diverge when it comes to recommending surgical treatment of Claimant's left knee and right shoulder problems. Guinn did not recommend that Claimant be operated on for these conditions. Instead, he acknowledged that Claimant was still having knee and shoulder symptoms and had not had significant improvement, but opted to release him from treatment anyway without any further recommendations—despite the fact that early on, he had stated that Claimant would "most likely" need surgery on his shoulder in order to obtain lasting relief. Smith, on the other hand, having benefits of the same diagnostic studies, has opined that surgery is appropriate at this point because of the well-documented failure of conservative treatment. After close scrutiny of the evidence, I credit the opinion of Dr. Smith over that of Dr. Guinn on this. The Commission is authorized to accept or reject a medical opinion and is authorized to determine its medical soundness and probative value. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002); *Green Bay Packing v. Bartlett*, 67 Ark. App. 332, 999 S.W.2d 692 (1999).

As the Arkansas Court of Appeals has held, a claimant may be entitled to additional treatment even after the healing period has ended, if said treatment is geared toward management of the injury. *See Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004); *Artex Hydrophonics, Inc. v. Pippin*, 8 Ark. App. 200, 649 S.W.2d 845 (1983). Such services can include those for the purpose of diagnosing the nature and extent of the compensable injury; reducing or alleviating symptoms resulting

from the compensable injury; maintaining the level of healing achieved; or preventing further deterioration of the damage produced by the compensable injury. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995); *Artex*, *supra*. The evidence adduced above shows that the surgeries and related treatment outlined by Dr. Smith above to address his left knee and right shoulder injuries meet this standard, and thus are reasonable and necessary. In short, Claimant has met his evidentiary burden and by establishing by a preponderance of the evidence his entitlement to these procedures and related treatment at the expense of Respondents.

CONCLUSION AND AWARD

Respondents are directed to pay/furnish benefits in accordance with the findings of fact and conclusions of law set forth above. All accrued sums shall be paid in a lump sum without discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code Ann. § 11-9-809 (Repl. 2002). *See Couch v. First State Bank of Newport*, 49 Ark. App. 102, 898 S.W.2d 57 (1995).

IT IS SO ORDERED.

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Hon. O. Milton Fine II
Chief Administrative Law Judge