

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT KNOXVILLE

January 10, 2001 Session

**OWEN FRANKLIN v. STATE OF TENNESSEE**

**Direct Appeal from the Tennessee Claims Commission  
No. 97005548 Michael Lacy, Claims Commissioner**

**Filed May 17, 2002**

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**No. E2001-00610-WC-R3-CV**

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This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. This case was heard in the Eastern Division of the State Claims Commission. The Commissioner who heard the case found the plaintiff had failed to prove that he received an injury to his respiratory system and allergies as a result of exposure to chemicals in the print shop at East Tennessee State University where he was employed. We affirm the judgment.

**Tenn. Code Ann. § 50-6-225(e) (1999) Appeal as of Right; Judgment of the Tennessee  
Claims Commission Affirmed**

JOHN K. BYERS, SR., J., delivered the opinion of the court, in which E. RILEY ANDERSON, J. and ROGER E. THAYER, SP. J., joined.

Tony Seaton, of Johnson City, Tennessee, for the Appellant, Owen Franklin.

Paul G. Summers, Attorney General & Reporter; Michael E. Moore, Solicitor General; Ellen H. Pollack, Assistant Attorney General, for the Appellee, State of Tennessee.

**MEMORANDUM OPINION**

**Facts**

\_\_\_\_\_The plaintiff was 56 years of age at the time of the trial in this case. He completed 10 years of school and had a GED. The plaintiff had worked in various jobs in printing from 1964 through

1994. He began work at ETSU on November 1, 1994.

The plaintiff was in good health prior to working at the university. The print shop was in the basement of the business building; it had no ventilation system and windows would be opened if the shop became “stuffy.” There was a heating and cooling system in the shop as well as a “fresh air system” that provided fresh air in the shop. The chemicals used in the shop met OSHA standards.

### **Medical Evidence**

In the fall of 1995, the plaintiff began to experience flu-like symptoms, which he described as making him tired and sleepy, caused him to be sore and experience nausea and fatigue.

In October of 1995, the plaintiff went to Dr. Jeffery Vaughn, a family practitioner, concerning these complaints. The plaintiff was subsequently seen by Dr. Frederick Furr, an allergist, Dr. Donna Seger, a toxicologist, and Dr. David Heuisekveld, an internal medicine specialist.

Dr. Vaughn had seen the plaintiff prior to the 1995 visit for complaints of nausea and abdominal pain. He testified the plaintiff had episodes of fatigue for years. Dr. Vaughn was unable to demonstrate by test the cause of the plaintiff’s problems. Dr. Vaughn thought perhaps the plaintiff’s work environment could be causing the plaintiff’s problems. The plaintiff told Dr. Vaughn that when he was away from his work, he felt much better. Dr. Vaughn had the plaintiff remain away from work for sometime.

Based upon the plaintiff’s report that he felt better when he was away from work, Dr. Vaughn expressed the opinion the plaintiff was hypersensitive to his workplace environment. He was of the opinion the plaintiff was able to work but not in the print shop.

The plaintiff was seen on one occasion by Dr. Frederick Furr. Dr. Furr conducted no examination of the plaintiff, nor did he do any tests.

Dr. Furr diagnosed the plaintiff as having a condition he described as multiple chemical sensitivity caused by the chemicals in the print shop. His opinion was based upon the history of the symptoms given by the plaintiff.

The defendant had the plaintiff examined by Dr. Donna Seger a toxicologist and medical director of Middle Tennessee Poison Center, located at Vanderbilt University Medical Center. Dr. Seger examined the plaintiff and reviewed tests that showed the plaintiff’s kidney and liver functions were normal. Further, she found the symptoms the plaintiff reported were not consistent with exposure to the chemicals to which the plaintiff had been exposed. She was of the opinion the plaintiff’s problems were not caused by his work in the print shop.

On the diagnosis of Dr. Furr, Dr. Seger had the following comments:

Dr. Furr believes that Mr. Franklin may have something called multiple chemical sensitivity. Multiple chemical sensitivity is an entity that has been put forth by a group of clinical ecologists, some of which are physicians and some of which are not, and their belief is that when a person is exposed to an allergen that this allergen causes a sensitization and the body begins making antibodies against itself and that there continues to be a prolonged period of this; so once this allergen has started this, this could go on the rest of their life.

They do tests that are not standard testing. They're not sent to standardized laboratories; find multiple abnormal chemical values in the person's body fluids including their hair and then recommend chelation which is what they say is going to rid the body of all these bad humors.

Many times chelations consist of multiple pills being ingested a day, and once again, these are not standard medical regimens. The American Medical Association and the scientific community has not accepted the validity of the diagnoses of multiple chemical sensitivity.

Dr. Heisenkveld examined the plaintiff and did blood tests on the plaintiff. From these he concluded there was nothing to indicate the plaintiff's symptoms were related to the work of the plaintiff at ETSU. He found the plaintiff suffered from a mild form of depression.

### Discussion

There is little to be said on the plaintiff's claim that his health problems are caused by his work at the print shop at ETSU.

Dr. Vaughn's diagnosis was not supported by any objective tests, but was based on upon the assumption, which should not necessarily be discounted, that if the plaintiff felt better when he was away from the print shop, then the print shop caused the problem.

Dr. Furr's opinion was given without any examination or tests being performed. His diagnosis of multiple chemical sensitivity appears to be largely unrecognized by the medical community.

Dr. Seger and Dr. Heisenkveld, conducted tests that did not show the plaintiff's problems were caused by the chemicals in the print shop.

The Commissioner accepted the testimony of Dr. Seger and Dr. Heisenkveld and rejected

the testimony of the other doctors. The record supports this finding.

We affirm the judgment of the Commissioner.

The costs of the appeal are taxed to the plaintiff.

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JOHN K. BYERS, SENIOR JUDGE

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**ORDER**

This case is before the Court upon the motion for review filed by Owen Franklin pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law.

It appears to the Court that the motion for review is not well-taken and is therefore denied. The Panel's findings of fact and conclusions of law, which are incorporated by reference, are adopted and affirmed. The decision of the Panel is made the judgment of the Court.

Costs are assessed to Owen Franklin, for which execution may issue if necessary.

PER CURIAM