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ARKANSAS COURT OF APPEALS

DIVISION I
No. CV-17-851

IAN DANIEL RUDE

APPELLANT

V.

CITY OF BELLA VISTA AND
MUNICIPAL LEAGUE WORKERS'
COMPENSATION TRUST

APPELLEES

Opinion Delivered February 28, 2018

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. G506934]

AFFIRMED

N. MARK KLAPPENBACH, Judge

Ian Daniel Rude appeals from the decision of the Arkansas Workers' Compensation Commission (Commission) finding that he had failed to prove by a preponderance of the evidence that he suffered from complex regional pain syndrome ("CRPS") as a result of his compensable right-shoulder injury. Rude argues that the Commission's decision is not supported by substantial evidence. *We affirm.*

Rude, then twenty-five years old, sustained an admittedly compensable injury to his right shoulder while performing firefighter training in April 2015. He was treated with physical therapy for his shoulder injury but continued to have pain. Over the course of more than a year, Rude saw numerous doctors in pursuit of a diagnosis and treatment for his pain. Two orthopedic surgeons who evaluated Rude, Dr. John Marcus Heim and Dr. Wesley Cox, noted that he had symptoms consistent with CRPS. Both referred Rude to pain-

management and CRPS specialists. Two of these specialists, Dr. David Cannon and Dr. Ronald Harbut, opined that Rude had CRPS, and two other specialists, Dr. Eugerie Hanley and Dr. Carlos Roman, opined that he did not have CRPS. At the time of the hearing before the administrative law judge (ALJ), Rude was being treated for CRPS by Dr. Katinka van der Merwe, a chiropractor who said she specializes in the treatment of the neurologic symptoms of CRPS.

Dr. Roman was the only doctor to testify by deposition in the case.¹ He testified that he is a board-certified anesthesiologist specializing in pain management and that he saw ten to twenty RSD² patients a week. As explained in his testimony and in two reports, Dr. Roman's evaluation led him to conclude that Rude did not have CRPS. He stated that Rude's clinical presentation did not show any signs of the condition and that tests that can help identify the condition were negative. Following his examination of Rude, Dr. Roman reviewed surveillance video of Rude using his right hand to, among other things, hold various items and open car doors. Dr. Roman explained that Rude did not show any restraint in the use of his right arm and hand in the video and that this was not compatible with Dr. Harbut's diagnosis of CRPS. Dr. Roman stated that the video strongly supported his opinion that

¹Rude's counsel objected below to the admission of Dr. Roman's deposition because the deposition was taken in counsel's absence. The ALJ offered other relief but denied the request to exclude the deposition. The ALJ concluded, however, that even if Dr. Roman's deposition was excluded, his opinion as reflected in two written reports was still entitled to the greatest weight.

²Dr. Roman testified that reflex sympathetic dystrophy ("RSD") was a different name for CRPS.

Rude did not have CRPS.

The ALJ found that the opinion of Dr. Roman was entitled to the greatest weight because he was the only physician who had evaluated Rude and reviewed the surveillance video. Based on Dr. Roman's opinion, the ALJ concluded that Rude had failed to meet his burden of proving by a preponderance of the evidence that he suffered from CRPS and was entitled to additional medical treatment and temporary total-disability benefits. The Commission affirmed and adopted the decision of the ALJ.

In reviewing a decision of the Commission, we view the evidence and all reasonable inferences in the light most favorable to the Commission's findings, and the decision will be affirmed if it is supported by substantial evidence. *Walker v. Fresenius Med. Care Holding, Inc.*, 2014 Ark. App. 322, 436 S.W.3d 164. Substantial evidence exists if reasonable minds could reach the Commission's conclusion. *Id.* When a claim is denied due to the claimant's failure to prove entitlement to compensation by a preponderance of the evidence, the substantial-evidence standard of review requires this court to affirm if the Commission's opinion displays a substantial basis for the denial of relief. *Id.* When there are contradictions in the evidence, it is within the Commission's province to reconcile conflicting evidence and to determine the true facts. *Id.* Questions of weight and credibility are within the sole province of the Commission, which is not required to believe the testimony of the claimant or of any other witness but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Id.* We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them

could not have reached the conclusions arrived at by the Commission. *Id.*

Rude argues that the Commission improperly discounted the diagnosis of CRPS made by five doctors, including two experts in the field of CRPS. He emphasizes Dr. Harbut's in-depth report of his evaluation and diagnosis and notes that Dr. Harbut specifically addressed Dr. Roman's opinion. Rude also relies on two letters from Dr. van der Merwe that detail objective evidence of his condition and the positive results from treatment he had received.

The Commission addressed the opinion of each doctor who had evaluated Rude but ultimately gave greater weight to the opinion of Dr. Roman. It was up to the Commission, as the finder of fact, to resolve conflicting medical opinions and evidence. *Hernandez v. Wal-Mart Assocs., Inc.*, 2009 Ark. App. 531, 337 S.W.3d 531. Dr. Roman was the only physician to view the surveillance video and was the second specialist to find that Rude did not have CRPS. Although Rude claims that Dr. van der Merwe provided an explanation for his use of his hand in the video, this evidence is contradictory to Dr. Roman's opinion. When the Commission chooses to accept the testimony of one physician over that of another, the appellate court is powerless to reverse the decision. *Hernandez, supra*. We conclude that the evidence, viewed in the light most favorable to the Commission's findings, is such that reasonable minds could have reached the conclusion of the Commission without resort to speculation or conjecture.

Affirmed.

HARRISON and BROWN, JJ., agree.

Tolley & Brooks, P.A., by: *Evelyn E. Brooks*, for appellant.

Katie Bodenhamer, for appellees.