Workers' Compensation
Commission Division
FILED: April 25, 2011

No. 1-10-0961WC

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

MENARD, INC.,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 09-L-51093
	)	
ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION and RONALD STERLING,	)	Honorable
	)	Sanjay T. Tailor,
Defendants-Appellees.	)	Judge, Presiding

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice McCullough and Justices Hoffman and Stewart concurred in the judgment.
Justice Holdridge dissented.

ORDER

Held: The Commission's finding that claimant's current condition of ill-being is causally related to his employment is not against the manifest weight of the evidence given claimant's undisputed accident at work, his immediate complaints following the fall, the lack of evidence that claimant sustained an injury in a car accident which occurred 10 days prior to the work injury, the conflicting medical opinions, and the Commission's roles in resolving conflicting medical evidence, assigning weight to the witnesses' testimony, and judging the credibility of the witnesses. Similarly, the Commission's decision to award prospective medical treatment and temporary total disability benefits will not be overturned on appeal where respondent's challenge to those awards were premised solely on its unsuccessful claim that the Commission's causation finding was erroneous.

Claimant, Ronald Sterling, filed an application for adjustment of claim pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 et seq. (West 2006)) for injuries he allegedly sustained on December 18, 2007, while in the employ of respondent, Menard, Inc. Following a hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2006)), an arbitrator found that claimant's accident was compensable and that claimant's injuries were causally connected to his employment. The arbitrator awarded claimant 19 weeks of temporary total disability (TTD) benefits and ordered respondent to authorize and pay for prospective medical treatment. On review, a majority of the Illinois Workers' Compensation Commission (Commission) affirmed and adopted the decision of the arbitrator and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). Thereafter, the circuit court of Cook County confirmed. On appeal, respondent challenges the Commission's findings with respect to causation, prospective medical treatment, and TTD benefits. For the reasons that follow, we affirm and remand this cause for further proceedings.

I. BACKGROUND

In February 2001, claimant was hired to work at a distribution center operated by respondent in Plano, Illinois. While at work on December 18, 2007, claimant, then 60 years old, tried to start a gasoline-powered generator by pulling on a cord with his right hand in the same way a gasoline lawnmower is started. According to claimant, when he pulled the cord, it broke, causing him to fall backwards onto a concrete floor.

Claimant testified that he landed on his upper back and that as a result of the accident, he injured his neck, shoulder, and back. Claimant denied experiencing any problems with these areas

immediately prior to the accident. Nevertheless, claimant did acknowledge that he underwent surgical intervention in 2005 because of a work-related injury to the same area of his body. Claimant also acknowledged that on December 8, 2007, just 10 days prior to the accident at issue, he was driving his Jeep about a block from his home when he hit a patch of ice, lost control of his vehicle, and slid into a fence post. According to claimant, he was traveling between 10 and 15 miles per hour at the time of the accident, he was not injured as a result of the motor-vehicle accident, and he did not seek any medical treatment between the date of the car accident and his fall at work on December 18, 2007. Although claimant was unsure of the date he returned to work after the car accident, he related that he did not immediately return because he had difficulty arranging alternative transportation. Claimant stated that once he found a ride, he worked until the date of the fall.

After reporting the December 18, 2007, fall to his supervisor, claimant was instructed to seek treatment at Provena Mercy Medical Center (Provena), where he was examined by Dr. Charles Woodward. Dr. Woodward's progress notes indicate that claimant "was starting a generator when the rope broke and he fell flat on his back." Claimant's chief complaint was upper back pain with left upper extremity radicular pain. Dr. Woodward's examination revealed mild tenderness over the cervical soft tissue on the left upper trapezius and tenderness to palpation in both rhomboids and in the upper trapezius. Dr. Woodward's diagnosis was upper back strain with left upper extremity radiculopathy. He instructed claimant to ice the area and prescribed pain medication. Dr. Woodward did not impose any work restrictions at that time, but noted that claimant may have to work more slowly.

During subsequent visits to Dr. Woodward's office, claimant continued to report radicular

pain. As a result, Dr. Woodward ordered an MRI of the cervical spine to evaluate the possibility of a herniated disc. Dr. Woodward also modified claimant's work restrictions to "mostly" sedentary duty with no lifting more than 10 pounds and no above the shoulder reaching with the right or left hand. Claimant's work restrictions were modified again on January 11, 2008, to include no lifting over five pounds with the left arm. Claimant underwent the MRI on January 18, 2008, and Dr. Woodward recommended a consultation with Dr. John Mazur.

Claimant was examined by Dr. Mazur on January 22, 2008. Claimant's chief complaints were left scapular pain, soreness in the left anterior shoulder, numbness and tingling in the left triceps area into the forearm, a cramping sensation in the entire left hand, and occasional discomfort in the right scapula. Dr. Mazur noted that he had previously seen claimant in March 2004 for similar complaints after tightening a cable at work and that as a result of that injury, Dr. Francisco Espinosa performed a cervical laminectomy. Dr. Mazur reviewed the January 2008 MRI, noting multiple areas of degenerative changes and an old disc herniation on the left side at C7-T1, but no significant nerve impingements and no spinal cord compression. Ultimately, Dr. Mazur found no evidence of injury. However, he was suspicious that claimant had a shoulder problem, such as supraspinatus tendonitis. Dr. Mazur referred claimant back to Dr. Woodward for further evaluation and testing.

On January 28, 2008, claimant again saw Dr. Woodward. At that time, Dr. Woodward interpreted the MRI as showing stenosis at several levels and a small, left-sided disc herniation at C7-T1, superimposed on degenerative spondylolisthesis. Dr. Woodward's diagnosis was neck strain with left upper extremity radiculopathy, moderate bilateral foraminal stenosis, left foraminal stenosis, and small, left-sided disc herniation. Dr. Woodward placed claimant on what he deemed

"significant work restrictions," including "mostly" sedentary work with no lifting over five pounds with the left arm, no above the shoulder reaching, and ambulation as tolerated. Dr. Woodward noted that claimant had a consultation with Dr. Espinosa scheduled for February 11, 2008, and he encouraged claimant to keep that appointment.

Claimant met with Dr. Espinosa as scheduled on February 11, 2008. Claimant informed Dr. Espinosa that he had been experiencing neck and arm pain since a fall at work on December 18, 2007. Claimant reported symptoms including a "pins-and-needles" sensation radiating from his posterior neck to his left hand and a "cold and clammy" sensation in his left hand. Claimant stated that the pain increased with activity to an 8 or 9 on a 10-point scale. On examination, Dr. Espinosa noted decreased range of motion in the neck, especially with left lateral rotation. Claimant exhibited strength of 4/5 in the left biceps and triceps as well as with left grasp strength. Sensation to pin was reduced in the C7 and C8 dermatomes on the left. Dr. Espinosa interpreted the January 2008 MRI as showing a collapsed disc space and retrolisthesis at C5-C6, foraminal stenosis on the right at C7-T1, and anterolisthesis at C7-T1 with left foraminal stenosis. Dr. Espinosa's diagnosis was herniated cervical disc and cervical spondylosis. Dr. Espinosa determined that claimant was "incapacitated and unable to work," and he recommended an EMG/nerve conduction study of the cervical spine as well as a cervical myelogram.

The EMG/nerve conduction study indicated an ongoing left C7 radiculopathy, a possible old C8 radiculopathy with a significant axonal component affecting median motor nerves, and a mild left ulnar neuropathy. The myelogram showed disc bulging and osteophytic changes at multiple levels, including C3-C4, C4-C5, C5-C6, C6-C7, and C7-T1; retro spondylolisthesis at C5-C6;

anterior spondylolisthesis at C6-C7 and at C7-T1; and bilateral extradural defects at C4-C5, C5-C6, C6-C7, and C7-T1. The post-myelogram CT scan confirmed these findings and also showed effacement of the thecal sac and exiting roots at nearly every level. The radiologist's impression was advanced degenerative disc and joint disease with alignment abnormalities at multiple levels.

Claimant followed up with Dr. Espinosa on March 25, 2008. Dr. Espinosa's notes reflect that claimant continued to experience severe left arm pain. Claimant also reported weakness of the left triceps and biceps and a diminished hand grip. Dr. Espinosa, noting that the EMG/nerve conduction study showed an acute left C7 radiculopathy and an old C8 radiculopathy, attributed these symptoms to the C8 radiculopathy. Dr. Espinosa also wrote that "[t]he CT myelogram showed multiple level degenerative disc disease but I think the foraminal stenosis at C6-7 on the left side is the cause of his acute left C7 radiculopathy. This is a result of the fall that he sustained on December 18, 2007. In my opinion, his present condition is due to such accident at work." Dr. Espinosa recommended epidural steroid injections, which claimant declined, opting for physical therapy instead. Dr. Espinosa thought a left C6-C7 foraminotomy would be appropriate if the therapy proved unsuccessful. Claimant returned to Dr. Espinosa's office on April 11, 2008, with continued complaints of severe left arm pain. At that time, Dr. Espinosa prescribed surgery. Per Dr. Espinosa's instructions, claimant was to remain off work until further notice. As of the date of the arbitration hearing, claimant had yet to undergo this procedure.

On April 23, 2008, respondent sent claimant to Dr. Jesse Butler for a medical examination pursuant to section 12 of the Act (820 ILCS 305/12 (West 2006)). Dr. Butler noted claimant's accident of December 18, 2007, which Dr. Butler described as "unwitnessed." Dr. Butler reviewed

claimant's medical records and noted that claimant "categorically denie[d]" either a motor-vehicle accident or a fall prior to the accident at issue. On examination, Dr. Butler noted mild limitation in range of motion in flexion and extension, no focal deficits of strength, but some decrease along the ulnar nerve distribution on the left side. Dr. Butler interpreted the January 2008 MRI as showing only mild-to-moderate degenerative disease throughout the cervical spine with no significant cervical foraminal stenosis at either C6-C7 or C7-T1 that would explain claimant's symptomatology. Dr. Butler also indicated that the myelogram and CT scan showed only nonspecific changes of osteoarthritic disease that are difficult to localize based on claimant's subjective complaints. Dr. Butler's impression was "a patient with reports of cervical pain syndrome with radiculopathy in the upper extremities after an unwitnessed fall." Although Dr. Butler acknowledged claimant's denial of any automobile accident, he wrote that it was "difficult to know whether the injuries [claimant] claims were a result of a work injury on December 18th and whether or not this could have been caused by an automobile accident on December 8, 2007." Dr. Butler explained that if claimant was involved in a motor vehicle accident where he ran into a fence at a reasonable speed, that mechanism would much more likely be responsible for his current symptoms as opposed to falling backwards after pulling on a cord. Nevertheless, Dr. Butler admitted that he had no documentation related to any motor vehicle accident.

At the arbitration hearing, William Harris, respondent's human resources coordinator, testified that claimant contacted respondent on Monday, December 10, 2007, to report that he had been in a car accident and to request off December 10 through December 13 as paid vacation days. Harris stated that claimant's request was approved and that claimant's next scheduled workday

would have been December 17, 2007. According to Harris, however, claimant "called in" that day and did not work. Claimant did show up for work on December 18, 2007, the day of his accident. Harris testified that Nick Smallwood, a coworker who was nearby, provided a statement that he witnessed claimant's fall.

Harris further stated that claimant did not return to work on his next scheduled workday after the fall. Instead, he requested vacation through December 29, 2007. According to Harris, claimant returned to work on January 2, 2008, and worked through January 5, 2008, but never returned thereafter. Harris spoke with claimant in person on January 25, 2008, and claimant told Harris that he did not call in to report his absences because his supervisor knew he was injured. Harris responded that claimant was still required to call in his absences and that there was work available within claimant's restrictions. On cross-examination, Harris admitted that he had no information to indicate that claimant was injured as a result of the December 8, 2007, motor-vehicle accident or that claimant sought medical assistance because of it.

At the arbitration hearing, claimant testified that the pain made it difficult for him to perform his duties and he was eventually terminated from respondent's employ. Claimant further testified that he has not looked for work because he did not believe that anyone would hire him in his condition. On cross-examination, claimant testified that on January 4, 2008, he gave a recorded statement to Karen Surrey of Zurich Insurance, respondent's workers' compensation carrier. Initially, claimant testified that he did not remember if Surrey asked him whether he had been involved in a car accident. Claimant was then shown a copy of the transcript of his interview with Surrey. After reviewing the transcript, the following exchange took place between respondent's

attorney and claimant:

"Q. Mr. Sterling, after reading the transcript of the recorded statement, does that refresh your recollection that you told Miss Surrey that you were not involved in a car accident at or around the time of your work accident?

A. Yes, sir. I was–

Q. Thank you. But you were, in fact, involved in a motor vehicle accident on December 8th, 2007, right?

A. Yes sir.

Q. In fact, you sustained over $6,000 in damages to the Jeep that you were driving then, right?

A. Yes, sir."

Claimant also admitted on cross-examination that he did not tell any of the doctors who examined him that he had been involved in a motor-vehicle accident. When asked whether Dr. Butler inquired if he had been involved in a motor vehicle accident, claimant responded, "I'm not aware if he asked me if I had done anything other than the fall to injure my back and I said no, sir." Claimant explained that he did not tell the doctors that he was in a car accident because, "[he] didn't think it had anything to do with it," he received no medical treatment, and he "wasn't hurting."

The arbitrator concluded that claimant sustained a compensable accident at work on December 18, 2007. Based on Dr. Espinosa's opinion, the arbitrator also concluded that claimant's condition is causally connected to the work accident. The arbitrator acknowledged that claimant was involved in a motor-vehicle accident just 10 days prior to the fall at work and that claimant had not

been "forthcoming" about the motor-vehicle accident. Nevertheless, the arbitrator stated that it was "unclear from the record whether [claimant] actually lied," explaining:

> "For example, the transcript of his interview with Respondent's adjuster was not offered in evidence so it is impossible to assess what weight it should be given. Dr. Butler's report shows [claimant] categorically denied involvement in the [motor-vehicle accident. Claimant] testified he was not asked that question but was asked only if there was another possible cause of his symptoms. Since Dr. Butler was wrong in stating the work accident was unwitnessed, his recounting of the conversation with [claimant] may also have been incorrect. In any event, Dr. Butler did not rebut Dr. Espinosa's causal connection opinion."

The arbitrator awarded TTD benefits from February 11, 2008, when Dr. Espinosa first took claimant off work, through June 19, 2008, the date of the arbitration hearing, a period of 19 weeks. The arbitrator also ordered respondent to authorize and pay for the surgery prescribed by Dr. Espinosa.

On review, a majority of the Commission affirmed and adopted the decision of the arbitrator and remanded the cause for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327. Commissioner Lamborn dissented. He would have found that claimant's current condition of ill-being was not causally connected to the accident at issue. Commissioner Lamborn found significant that claimant took 10 days off work as a result of what could be deemed a significant motor-vehicle accident and that claimant's work injury allegedly occurred on his first day back at work following the accident. Commissioner Lamborn called into question claimant's credibility, noting that at various times claimant went to "great lengths" to either downplay the significance or deny the occurrence of the

motor-vehicle accident. Commissioner Lamborn would have given greater weight to the opinion of Dr. Butler, whose records were based on an accurate history. On judicial review, the circuit court of Cook County confirmed the decision of the Commission. This appeal ensued.

II. ANALYSIS

A. Causation

On appeal, we first address respondent's contention that the Commission's finding that claimant's current condition of ill-being is causally connected to his employment is against the manifest weight of the evidence. In a workers' compensation case, the employee has the burden of proving by a preponderance of the evidence all of the elements of his claim. *R & D Thiel v. Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 867 (2010). Among these elements, the employee must establish that his current condition of ill-being is causally connected to a work-related injury. *St. Elizabeth's Hospital v. Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 887 (2007). Whether a causal relationship exists between one's employment and his current condition of ill-being is a question of fact to be resolved by the Commission. *P.I. & I. Motor Express, Inc./For U, LLC v. Industrial Comm'n*, 368 Ill. App. 3d 230, 240 (2006). In deciding questions of fact, it is the function of the Commission to resolve conflicting medical evidence, judge the credibility of the witnesses, and assign weight to the witnesses' testimony. *R & D Thiel*, 398 Ill. App. 3d at 868; *Hosteny v. Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). The Commission's determination on a factual matter will not be disturbed on review unless it is against the manifest weight of the evidence. *R & D Thiel*, 398 Ill. App. 3d at 868. A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *P.I. & I. Motor*

Express, Inc./For U, LLC, 368 Ill. App. 3d at 240.

In this case, the evidence supports the Commission's finding that claimant's current condition of ill-being is causally related to his employment. Claimant testified that on December 18, 2007, he fell at work and struck his upper back against the concrete floor when the cord broke on the generator he was trying to start. Respondent does not dispute that the fall occurred. In fact, claimant reported the occurrence to his supervisor, a coworker provided a statement that he witnessed the fall, and respondent sent claimant to Provena for an examination. At Provena, claimant was initially examined by Dr. Woodward, who ultimately diagnosed neck strain with left upper extremity radiculopathy, moderate bilateral foraminal stenosis, left foraminal stenosis, and small, left-sided disc herniation. Thereafter, claimant sought medical treatment from other practitioners. Of those, Dr. Espinosa and Dr. Butler provided opinions as to causation. Dr. Espinosa found that foraminal stenosis at C6-C7 on the left side was the cause of claimant's acute left C7 radiculopathy. Further, Dr. Espinosa related claimant's condition to the December 18, 2007, fall at work. Dr. Butler, who saw claimant at respondent's request, diagnosed cervical pain syndrome with radiculopathy in the upper extremities. Dr. Butler believed that claimant's symptoms were more consistent with a motor-vehicle accident than a fall at work. Nevertheless, Dr. Butler noted that claimant denied any involvement in an automobile accident and that there was no evidence that claimant was injured in any motor-vehicle accident. In concluding that claimant's cervical condition is causally related to his fall at work on December 18, 2007, a majority of the Commission affirmed and adopted the arbitrator's findings. The arbitrator relied on the opinion of Dr. Espinosa, claimant's treating physician. The arbitrator further noted that Dr. Espinosa's opinion is supported by claimant's

medical records, which show immediate complaints to the neck after the accident which worsened over time. The arbitrator acknowledged that claimant was not "forthcoming" about his involvement in the motor-vehicle accident. Nevertheless, she noted that Dr. Butler did not rebut Dr. Espinosa's causal connection opinion.

Respondent insists that because Dr. Espinosa's opinion was based on the history provided to him by claimant and that claimant acknowledged that he did not tell Dr. Espinosa that he was involved in a motor-vehicle accident just days before the fall at work, Dr. Espinosa's opinion on causation is not "accurate." However, respondent failed to offer any evidence that claimant sustained an injury as a result of his involvement in the December 8, 2007, motor-vehicle accident. Indeed, as noted above, even Dr. Butler, who opined that claimant's mechanism of injury was more consistent with a car accident, acknowledged that he had no documentation related to any motor-vehicle accident.

Respondent also insists that the Commission should not have placed any weight on claimant's testimony because he was not a credible witness. Respondent maintains that the motor-vehicle accident of December 8, 2007, is the cause of claimant's current condition of ill-being, not his fall at work. In support of its position, respondent asserts that claimant lied to Surrey about whether he was involved in a car accident around the time of his fall, claimant denied the motor-vehicle accident to Dr. Butler, and claimant's testimony regarding his absences from work after the December 8, 2007, automobile accident were contradicted by Harris. However, the weight to attribute to a witness's testimony is wholly within the province of the Commission. See *R & D Thiel*, 398 Ill. App. 3d at 868; *Hosteny*, 397 Ill. App. 3d at 674. The Commission was surely aware

of any inconsistencies in claimant's testimony, but opted not to resolve them in a manner adverse to claimant as was within its province to decide. In short, given claimant's undisputed accident at work on December 18, 2007, his immediate complaints following the fall, the lack of evidence that claimant sustained an injury in the car accident, the conflicting medical opinions, and the Commission's roles in resolving conflicting medical evidence, assigning weight to the witnesses' testimony, and judging the credibility of the witnesses (*R & D Thiel*, 398 Ill. App. 3d at 868; *Hosteny*, 397 Ill. App. 3d at 674), we cannot say that a conclusion opposite to the Commission's is clearly apparent.

Alternatively, respondent insists that the Commission improperly applied the law "by stating it was unable to determine if claimant was a credible witness." In support of its position, respondent again cites to the statement claimant gave to Surrey about the December 8, 2007, car accident. Respondent notes that at the arbitration hearing, claimant initially testified that he did not remember if Surrey asked him whether he had been involved in a motor-vehicle accident around the time of his fall at work. However, after reviewing a transcript of his statement, claimant acknowledged that he told Surrey that he had not been involved in a car accident. In rendering its decision on the issue of causation, the arbitrator acknowledged that claimant was not "forthcoming" about the motor-vehicle accident. However, she found that it was "unclear" whether claimant actually lied, noting, among other things, that because the transcript of claimant's statement to Surrey was not offered into evidence, it was "impossible to assess what weight it should be given." A majority of the Commission affirmed and adopted the arbitrator's findings. Respondent insists that it was not required to offer the transcript into evidence.

"The credibility of a witness may be tested by showing that, at a prior time, he made a statement which is inconsistent with his trial testimony on a material matter." *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d 244, 260 (2008). " 'If upon questioning, the witness denies having made the prior inconsistent statement or gives equivocal answers to questions regarding the prior statement, the impeachment must be completed by later offering evidence of the inconsistent statement.' " *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d 244, 260 (2008), quoting *Edward Don Co. v. Industrial Comm'n*, 344 Ill. App. 3d 643, 652 (2003). "However, if a witness admits having made the statement, the actual statement need not be introduced." *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d at 260. In this case, after reviewing the transcript, claimant acknowledged that he told Surrey that he had not been involved in a car accident. Thus, based on the foregoing authority, we agree that respondent was not required to seek admission of the transcript of claimant's conversation with Surrey. However, we do not believe that this error requires us to overturn the Commission's award of benefits. Respondent's argument is essentially an attack on claimant's credibility. As noted above, the Commission was certainly aware of inconsistencies in claimant's testimony regarding his involvement in the motor-vehicle accident. Nevertheless, it opted not to resolve them in a manner adverse to claimant. Since respondent introduced no evidence that claimant was actually injured in the car accident, we decline to reverse the decision of the Commission on this basis.

B. Prospective Medical Treatment and TTD Benefits

Respondent also contends that the Commission's awards of prospective medical treatment and TTD benefits are against the manifest weight of the evidence. Respondent's arguments in this

regard are premised solely on its earlier contention that claimant failed to sustain his burden of showing that his current condition of ill-being is causally connected to his employment. Having rejected respondent's contention with respect to causation, we necessarily find unpersuasive its arguments with respect to the propriety of the Commission's awards of prospective medical treatment and TTD benefits. As a result, we reject these contentions as well.

III. CONCLUSION

For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the decision of the Commission. This cause is remanded for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

Affirmed and remanded.

JUSTICE HOLDRIDGE, dissenting:

I respectfully dissent. I believe that the Commission's conclusion that the claimant's current condition of ill-being is causally related to his work accident is against the manifest weight of the evidence. Two doctors gave causation opinions in this case, Dr. Espinosa and Dr. Butler. Although Dr. Espinosa opined that the claimant's injuries were caused by his alleged fall at work, his opinion was based upon the limited and selective history given by the claimant. Dr. Espinosa did not know that the claimant was in a motor vehicle accident that caused over $6,000 in damages to his Jeep ten days before his alleged work accident. Dr. Butler testified that if the claimant were in a motor vehicle accident shortly before his fall at work, it "would much more likely be responsible for his current symptoms" than his work accident. During the arbitration hearing, the claimant admitted that he was in a motor vehicle accident ten days before his work accident. In my view, the Commission should

have credited Dr. Butler's causation opinion over that of Dr. Espinosa because Dr. Espinosa did not know that the claimant had been in a motor vehicle accident and therefore based his causation opinion on incomplete facts. See, *e.g.*, *Witt v. Industrial Comm'n*, 195 Ill. App. 3d 679, 688 (1990) (ruling that the Commission could discount a doctor's causation opinion where the claimant "kept [the doctor] in the dark about his prior medical history" and "what little medical history the doctor knew was learned from [the claimant]").

The majority faults the employer for "fail[ing] to offer any evidence that [the] claimant sustained an injury as a result of his involvement in the December 8, 2007, motor-vehicle accident." Slip op. at 13. But it was the claimant's burden to prove that his current injuries were caused by the work accident, not the employer's burden to prove another cause. Although a claimant need not disprove every other potential cause to satisfy his burden, he must prove causation by the preponderance of the evidence. Under the particular facts presented here—where the claimant was involved in a significant motor vehicle accident ten days prior to the work accident, the only doctor who presented a causation opinion in the claimant's favor did not know about the prior accident, and the only other doctor who testified as to causation concluded that the claimant's injuries were much more consistent with a motor vehicle accident than the work accident—I would hold that it is against the manifest weight of the evidence to conclude that the claimant met his burden of proving causation.

Accordingly, I would reverse.