

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FOURTH DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

DAVID R. JONES,)	Appeal from the Circuit Court
)	of Coles County.
Appellant and Cross-Appellee,)	
)	
v.)	No. 11-MR-126
)	
THE WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> ,)	Honorable
)	Mitchell K. Shick,
(Vitran Express., Appellee and Cross-Appellant).)	Judge, Presiding.

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

ORDER

- ¶ 1 *Held:* Claimant failed to establish that the Commission's decision to deny an award of permanent partial disability is contrary to the manifest weight of the evidence; and respondent failed to establish that the Commission's decisions to award temporary total disability is contrary to the manifest weight of the evidence.
- ¶ 2 Claimant, David R. Jones, appeals the judgment of the circuit court of Coles County confirming the decision of the Illinois Workers' Compensation Commission (Commission) awarding

him 47 weeks temporary total disability (TTD) at \$444.47 per week (820 ILCS 305/8(b) (West 2000)). Claimant contests the Commission's denial of his request for a permanency award. Respondent cross appeals, challenging the award of TTD. For the reasons that follow, we affirm.

¶ 3 The parties are aware of the facts, and we will not set them forth in great detail here. By way of background, claimant was involved in a work-related accident on July 25, 2000, when a pallet of packaged chocolate fell on him. Four days later, he was involved in an automobile accident when, while he was stationary, a vehicle travelling at a speed of 40 miles-per-hour rear-ended him. Claimant had been released to return to work in the interim. Claimant had a history of back problems, and he also had several procedures in the years following the accidents, including a fusion in April 2007.

¶ 4 The arbitrator found that the automobile accident was an intervening event that broke the causal chain between claimant's condition of ill being and the at-work accident of July 25, 2000. See *Teska v. Industrial Comm'n*, 266 Ill. App. 3d 740, 742 (1994). The Commission disagreed in part, and found that claimant had proved that a left-shoulder injury was causally related to the at-work accident. The Commission noted that claimant had only received treatment for his neck following the vehicular accident. Thus, it awarded 47 weeks TTD, but found that this condition had resolved when claimant was given a full-duty release to work on June 18, 2001. As such, the Commission denied claimant's request for an award of permanent partial disability. The trial court confirmed the Commission's decision. Both parties now appeal.

¶ 5 We first turn to claimant's appeal. Claimant is proceeding *pro se*. It is well-established that “*pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys.” *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009). On appeal, those rules and

procedures include that argument must be supported by citation to evidence in the record to substantiate factual allegations and citation to legal authority (*i.e.*, cases, statutes, or court rules) that establishes a rule of law that would entitle the appellant to prevail. See Ill. S. Ct. R. 342(h)(7) (eff. January 1, 2005) (“Argument” shall “contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on,” and “[p]oints not argued are waived.”). Furthermore, “[a] reviewing court is entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented [citation], and it is not a repository into which an appellant may foist the burden of argument and research [citation]; it is neither the function nor the obligation of this court to act as an advocate or search the record for error.” *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). Indeed, it would be flatly improper for this court to assume the role of advocate and develop claimant’s arguments for him. See *Jackson v. Board of Election Commissioners of the City of Chicago*, 2012 IL 111928, ¶ 34.

¶ 6 Claimant’s arguments do not, for the most part, comport with these rules. Without explanation, claimant simply states that the decision of the circuit court is contrary to the manifest weight of the evidence. He also claims he was not given notice of the proceedings in the circuit court; however, he has attached a letter from the attorney representing him at the time stating that the attorney appeared for these proceedings. We are unaware of any rule holding that notice to one’s legal representative is insufficient, and claimant does not identify one. He further asserts that he was discharged in retaliation for filing a claim under the Act. In support, he has attached a copy of a complaint filed in Madison County alleging such a theory; however, the complaint shows a different case number and appears to be a separate action from the present case. Claimant does not suggest that it has been consolidated here (there is no reference to it in the decisions of the arbitrator or Commission). Claimant next complains of certain issues with his insurance carrier that are beyond

the scope of a worker's compensation case. Claimant asserts that his medical bills were not paid for; however, the Commission expressly found that claimant "failed to submit any billing records into evidence relating to his left shoulder treatment." Claimant does not attempt to explain why this finding is erroneous. Claimant also makes a number of allegations in a section titled "conclusion" that are not supported by citation to evidence in the record. In short, it is claimant's burden to show error in the proceedings below on the issues he is appealing (*TSP-Hope, Inc. v. Home Innovators of Illinois, LLC*, 382 Ill. App. 3d 1173 (2008)), and such conclusory and unsupported allegations are insufficient to carry that burden.

¶ 7 Nevertheless, before turning to respondent's cross-appeal, we will examine the brief filed by claimant in the trial court in which he argued a number of the Commission's findings were erroneous. We review the factual findings of the Commission using the manifest-weight standard. *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). We will reverse only if an opposite conclusion is clearly apparent. *City of Chicago v. Illinois Workers' Compensation Comm'n*, 373 Ill. App. 3d 1080, 1093 (2007). Due to the Commission's expertise in the area, we owe great deference to its decisions on medical issues. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). Moreover, it is primarily the function of the Commission to resolve conflicts in the evidence. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 406 (1984).

¶ 8 Before the trial court, claimant argued that the Commission erred in denying his claim of a back injury on the basis that the automobile accident broke the causal chain between his condition and the July 25, 2010, accident. He asserts that, as the Commission recognized, since the only treatment he received following the automobile accident was for his neck, that accident could not have broken the causal chain regarding his back. He also notes that a doctor who performed a fusion in 2007 opined claimant's back condition was related to the July 25 accident. However, there was

evidence to the contrary. For example, claimant was released to full-duty between the two accidents. Moreover, Dr. Cantrell opined that the July 25 accident neither caused nor aggravated claimant's back condition. Before the Commission, it was claimant's burden to prove each element of his or her claim by a preponderance of the evidence. *Caterpillar Tractor Co. v. Industrial Comm'n*, 83 Ill. App. 3d 213, 216 (1980). The Commission could have simply determined that, given the conflicting evidence, claimant did not carry this burden, and we can not say that an opposite conclusion is clearly apparent.

¶ 9 Claimant also argued that the Commission's decision regarding the lack of permanency regarding his left-shoulder injury was error. Again, claimant musters evidence in support of his position, but ignores evidence to the contrary, such as the fact that he was released to full-duty on June 18, 2001. Similarly, his final contention that he was entitled to TTD through 2009 ignores this same evidence. Quite simply, the evidence on these issues was conflicting, and under those circumstances, we owe great deference to the Commission. *Long*, 76 Ill. 2d at 566. Accordingly, we are unable to conclude that the Commission's decision is against the manifest weight of the evidence.

¶ 10 We now turn to respondent's cross appeal. Respondent contends that the Commission's finding that claimant's shoulder injury was caused by the July 25, 2010, accident and the resulting TTD award are erroneous. The Commission expressly observed that claimant did not seek treatment for his shoulder following the automobile accident and concluded that the automobile accident was not an intervening event that broke the chain of causation with respect to the shoulder injury. Like claimant, respondent sets forth evidence that supports its position, such as Dr. Cantrell's opinion. It is, however, well established that the trier of fact need not accept all of an expert's testimony. *Villareal on behalf of Villareal v. Peebles*, 299 Ill. App. 3d 556, 561-62 (1998) ("The trial court is

free to evaluate the expert evidence presented and accept or reject it in whole or in part.”). The only other evidence identified by respondent to establish that the Commission’s decision is against the manifest weight of the evidence is the fact that claimant was given a full-duty release between the two accidents. However, the Commission persuasively explained why it believed the automobile accident did not break the causal chain regarding claimant’s shoulder. While the full-duty release would militate in the opposite direction on this issue, it is certainly not enough for us to say that an opposite conclusion is clearly apparent. Therefore, the decision of the Commission is not contrary to the manifest weight of the evidence. *City of Chicago*, 373 Ill. App. 3d at 1093.

¶ 11 As neither party has established that the Commission's decisions are contrary to the manifest weight of the evidence, we affirm those decisions.

¶ 12 Affirmed.