ILLINOIS OFFICIAL REPORTS

Appellate Court

***Diaz v. Illinois Workers' Compensation Comm'n*, 2013 IL App (2d) 120294WC**

Appellate Court Caption	ISMAEL DIAZ, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (The Village of Montgomery, Appellee).
District & No.	Second District Docket No. 2-12-0294WC
Filed	April 16, 2013
Rehearing denied	June 17, 2013
Held (*Note: This syllabus constitutes no part of the opinion of the court but has been prepared by the Reporter of Decisions for the convenience of the reader.*)	The psychological harm claimant police officer suffered as a result of a standoff with a citizen holding what appeared to be a handgun was compensable under the Workers' Compensation Act, since the officer suffered a sudden, severe emotional shock as a result of the standoff that arose out of and in the course of his employment, resulting in the development of posttraumatic stress disorder that was causally related to the incident, and in denying the claim, the Workers' Compensation Commission applied an incorrect standard of proof by concluding that whether a worker suffered emotional shock sufficient to warrant recovery should be determined by a subjective standard taking into consideration the claimant's occupation and training rather than an objective, reasonable-person standard.
Decision Under Review	Appeal from the Circuit Court of Kane County, No. 11-MR-377; the Hon. Thomas E. Mueller, Judge, presiding.
Judgment	Reversed and remanded.

Counsel on Appeal	Craig S. Mielke, of Foote, Meyers, Mielke & Flowers, LLC, of St. Charles, for appellant. W. Britton Isaly, of Ancel Glink Diamond Bush DiCianni & Krafthefer, PC, of Chicago, for appellee.
Panel	JUSTICE STEWART delivered the judgment of the court, with opinion. Presiding Justice Holdridge and Justices Hoffman and Hudson concurred in the judgment and opinion. Justice Turner dissented, with opinion.

OPINION

¶ 1 The claimant, Ismael Diaz, filed an application for adjustment of claim against his employer, the Village of Montgomery, seeking workers' compensation benefits for posttraumatic stress disorder allegedly caused by a work-related accident on May 29, 2007. The claim proceeded to an arbitration hearing pursuant to the Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq*. (West 2006)). The arbitrator found that the claimant sustained an accident that arose out of and in the course of his employment and awarded temporary and permanent disability benefits. The employer appealed to the Illinois Workers' Compensation Commission (Commission) and, in a 2 to 1 decision, the Commission reversed the arbitrator's decision and found that the claimant failed to prove that he sustained a compensable accident. The claimant filed a timely petition for review in the circuit court of Kane County, and the circuit court confirmed the Commission's decision. The claimant filed a timely notice of appeal to this court.

¶ 2 This case requires us to consider the proof necessary for a claimant to recover in a workers' compensation claim for a psychological disability in the absence of a physical injury, a type of case commonly known as a "mental-mental" claim. The sole issue raised by the claimant in this appeal is whether, as a police officer, he was improperly held to a higher standard of proof than workers in other occupations. We hold, as a matter of law, that the Commission applied the wrong standard to this claim. Accordingly, we reverse the decision of the Commission and remand for further proceedings.

¶ 3 BACKGROUND

¶ 4 Our recitation of the facts in this case is derived from the evidence presented at the arbitration hearing held on February 17, 2010. The claimant testified that he began working for the employer in 2004, as a patrolman. On May 29, 2007, he responded to a call about a

disturbance between neighbors. While dealing with the original call, another neighbor became upset because the police squad cars were blocking his driveway and asked the officers to move the cars. The neighbor, who was later identified as a Mr. Ethridge, was told that the cars would be moved as soon as the police officers were done handling the original call. Ethridge became upset, went into his house, and came out holding what appeared to be a handgun.

¶ 5 The claimant testified that after seeing the handgun, he drew his weapon and commanded Ethridge to drop the gun. Ethridge did not comply and continued to walk toward the claimant and another officer. The claimant testified that "[w]hen he got approximately I want to say about 15 feet away from where I had taken cover behind a SUV, I saw that [the gun] had an orange tip–." The claimant stated that the orange tip indicated to him that the handgun might not be a real gun, that it was possibly a BB gun or some type of toy gun. He continued to command Ethridge to drop the gun. The claimant stated that while he believed Ethridge had a BB gun or some type of toy gun, he did not want to take any chances so he stayed behind cover. The closest Ethridge came to him while holding the gun was about 10 feet away. The claimant stated that 10 to 15 seconds elapsed from the time he saw Ethridge with the gun until he realized it was a BB gun or some type of toy gun. At the time he instructed Ethridge to drop the gun, there was just one other officer present. The claimant called for backup, and additional officers arrived within one or two minutes.

¶ 6 The claimant testified that Ethridge eventually retreated into his house at which point a standoff began. The Aurora special response team responded to the scene, secured the perimeter of the house, and brought in a negotiator to commence talks with Ethridge. The claimant remained on the scene until approximately 11 p.m., but left prior to the resolution of the standoff. Eventually the special response team used tear gas or smoke bombs to gain entrance to Ethridge's home and took him into custody.

¶ 7 Daniel Meyers, deputy chief of police for the employer, testified that he has supervised the claimant the entire time the claimant has worked for the employer. He stated that he was present at the incident on May 29, 2007, and that the original disturbance call came in at about 6 p.m. He received the call for backup at 6:13 p.m., and he arrived on the scene at 6:33 p.m. When he arrived, the claimant was behind a tree located about 40 to 50 yards from the house. The claimant briefed Deputy Chief Meyers on the circumstances leading up to the standoff. Deputy Chief Meyers testified that when he arrived, there were approximately 10 to 15 officers on the scene. He stated that the Aurora special response team was returning from training and that he asked for their assistance. The entire team of just under 30 members arrived to assist with the standoff. He estimated that there were more than 40 officers on the scene. Deputy Chief Meyers testified that even though there was a belief that Ethridge had a toy gun, there was still a concern by all the officers present that he was potentially armed and dangerous.

¶ 8 The claimant testified that he did not immediately experience anxiety after the incident. He stated that he "was just wound up, you know, I guess like adrenaline." He went to work the next day and did not experience palpitations or anxiety. On May 31, 2007, he responded to an accident with injuries, and he felt anxious. On June 1, 2007, during roll call, he experienced the following:

> "I was reading something, and I remember I kind of lost vision on what I was reading. My vision got kind of blurred, and I felt a little dizzy. Got up and went and got a drink of water. Came back and still felt the same. Had like heart palpitations. I was sweaty. Just felt like nervous."

The claimant testified that he thought he was dehydrated. He did not mention his symptoms to anyone. He got into his squad car and started his patrol, thinking that the symptoms would pass, but his condition did not improve. He realized that he should not be driving so he returned to the station. The claimant spoke to Deputy Chief Meyers, who suggested that an ambulance be called. Deputy Chief Meyers testified that the claimant did not complain of nervousness, anxiety, or palpitations prior to that day.

¶ 9 The claimant was transported by ambulance to a hospital where he was examined to rule out a heart attack. He began treatment at the Dreyer Clinic on June 5, 2007, and was diagnosed with posttraumatic stress disorder. The medical records from the Dreyer Clinic reflect that he was treated with medication and counseling. Although he attempted to continue working, he suffered from multiple "panic attacks" and was overwhelmed by anxiety. He reported flashbacks from the incident in May and from a prior incident described below, as well as troubling dreams about his work as a police officer.

¶ 10 At the beginning of August, the claimant had a discussion with Chief Schmidt in which he told the chief that he did not believe he could perform the job of a police officer due to the anxiety he was experiencing. The chief agreed that the claimant should be off work. During the time he was off work, he received full pay through his sick leave, "comp" time, and vacation time.

¶ 11 On August 21, 2007, the claimant underwent a police officer fitness-for-duty evaluation at the request of the chief of police. The examiners found the claimant unfit for duty as a police officer at that time. They found he was emotionally overwhelmed and plagued by significant anxiety and depressive issues. They found the assessment results were consistent with posttraumatic stress symptoms and warranted intensive treatment prior to his return to the job.

¶ 12 Prior to and following the fitness evaluation, the claimant underwent treatment which included psychiatric care and counseling. The claimant testified that he continues to follow up with the Dreyer Clinic every couple of months and that the treatment will continue indefinitely. He stated that he currently takes sertraline, an antidepressant, on a daily basis and clonazepam, an antianxiety drug, as needed.

¶ 13 The claimant also described an incident that occurred in early 2005, two years prior to the May 2007 incident. There was an emergency broadcast indicating that an officer needed assistance with a man with a knife. The claimant responded and was the first backup officer at the scene. The officer requesting assistance told the claimant that he was writing a report when an individual approached his squad car and broke out the window. When the claimant arrived at the scene, the suspect was sitting at a motel with a machete in one hand and a knife in the other hand, approximately 150 yards from where the claimant parked his squad car. The claimant was standing by his squad car and the Oswego chief of police was standing on the roadway about 100 feet from the suspect when the suspect started walking toward the

chief waving the machete and knife. Although the officers had their guns drawn, the suspect kept approaching until he was shot several times by other officers. At the time of the shooting, the claimant had moved to within 10 to 15 yards from the suspect. After the shooting incident, the claimant had some anxiety that lasted for about one week, but he did not seek or obtain psychiatric treatment at that time.

¶ 14 The claimant testified that he had never previously experienced the level of anxiety or depression he suffered from after the May 2007 incident. Prior to May 2007, he was never prescribed antidepressant or antianxiety medication, and he never sought or received psychiatric care. The claimant stated that certain police calls now create anxious feelings, but that the medicine he takes helps control his anxiety. Since he started taking his medications "the symptoms, if they do come, they're not as severe and they're not as long lasting as they were without the medication."

¶ 15 The claimant testified that he has had weapons training and that he was required to have weapons training twice per year. He further stated that he had been trained in how to deal with someone with a weapon. He stated that he followed proper protocol during the May 29, 2007, incident.

¶ 16 On November 11, 2007, the claimant underwent a police officer fitness-for-duty reevaluation. At that time the examiners found that the claimant's symptoms of anxiety, apprehension, and agitation had dissipated. The examiners found "based on personality and interview data, as well as positive progress in his respective treatments," that the claimant was fit for duty as a police officer. It was recommended that he continue consulting with his psychiatrist for medication management and with his psychotherapist to assist with his transition into his position and to address handling charged or stressful situations. The claimant returned to light-duty work on October 27, 2007, and to full-duty work on November 30, 2007.

¶ 17 The arbitrator, citing the supreme court's decision in *Pathfinder Co. v. Industrial Comm'n*, 62 Ill. 2d 556, 343 N.E.2d 913 (1976), found that the claimant was involved in an accident on May 29, 2007, that the accident arose out of and in the course of his employment, and that his condition of ill-being was causally related to the accident. He found that the claimant had been temporarily totally disabled from August 1, 2007, through October 23, 2007, and that because the employer had paid him a full salary during that period, it should receive full credit for those payments. He further found that the claimant's injury caused a 15% loss of the person as a whole and ordered the employer to pay the claimant permanent partial disability benefits of $619.97 per week for 75 weeks.

¶ 18 The Commission, in a 2 to 1 decision, reversed the arbitrator's decision and found that the claimant failed to prove that he sustained a compensable accident. In doing so, a majority of the Commission found as follows:

> "In finding that Petitioner failed to prove accident, we rely on *General Motors Parts Division v. Industrial Comm'n.*, 168 Ill. App. 3d 678, 522 N.E.2d 1260 (1988). In *General Motors*, the court interpreted the *Pathfinder* decision and concluded that compensation 'is limited to the narrow group of cases in which an employee suffers a sudden, severe emotional shock which results in immediately apparent psychic injury and

is precipitated by an uncommon event of significantly greater proportion or dimension than that to which the employee would otherwise be subjected in the normal course of employment.'

* * *

The Commission adopts a more narrow construction of *Pathfinder* as expressed in the *General Motors* decision. In this case, Petitioner is a police officer and is trained in weapons training. Petitioner is also trained to handle encounters with subjects who are considered armed and dangerous. *** We acknowledge that Petitioner's encounter with the subject on May 29, 2007, presented a dangerous and precarious situation. We find, however, that the encounter that Petitioner had with the subject on May 29, 2007, is not an uncommon event of significantly greater proportion than what he would otherwise be subjected to in the normal course of his employment."

One Commissioner dissented, noting that "[t]he incident is no less shocking or traumatic because petitioner is a police officer."

¶ 19 The claimant filed a petition for review in the circuit court of Kane County. In a *de novo* review, the court confirmed the Commission's decision, holding that there was no showing of "a sudden severe emotional shock resulting in immediately apparent psychic injury." The claimant filed a timely notice of appeal.

¶ 20 ANALYSIS

¶ 21 The parties differ on the standard of review. The claimant argues that the only question is the application of the law to the undisputed facts, and therefore, the Commission's decision should be reviewed *de novo* and set aside. The employer argues that the Commission's decision should be affirmed because it was not against the manifest weight of the evidence. We agree with the claimant for two reasons. First, the relevant facts in this case are undisputed. There is no indication that the Commission drew any inferences or did anything other than apply the law to the undisputed facts. When the facts are undisputed, deference should be given to the Commission's decision only when it must draw inferences from the facts in order to render its decision. *Flynn v. Industrial Comm'n*, 211 Ill. 2d 546, 553, 813 N.E.2d 119, 123-24 (2004). When there is no question of inference or weight to be given evidence, and all the Commission does is apply the law to the undisputed facts, review is *de novo*. *Id.*, 813 N.E.2d at 124. Second, the issue in this case is whether the Commission held the claimant to a higher standard of proof than is required in a mental-mental claim. "Whether a claimant must prove certain elements to establish a compensable claim is purely a question of law and it is therefore reviewed *de novo*." *Baggett v. Industrial Comm'n*, 201 Ill. 2d 187, 194, 775 N.E.2d 908, 912 (2002). Findings based on the application of incorrect conclusions of law are not entitled to deference. *Id.* Accordingly, our review is *de novo*.

¶ 22 The underlying question is whether the Commission held the claimant, a police officer, to a unique standard of "severe emotional shock" not otherwise applicable to employees in other lines of work and its decision is, therefore, contrary to law. The history of this case demonstrates the confusion that exists regarding the elements of proof necessary to establish a mental-mental claim. The arbitrator, citing only *Pathfinder*, found the claim to be

compensable. A majority of the Commission, however, by its own terms, adopted the "more narrow construction" of *General Motors*, and denied compensation.

¶ 23 Prior to the court's holding in *Pathfinder*, mental disability was compensable only if it was precipitated by physical contact or injury. *City of Springfield v. Industrial Comm'n*, 291 Ill. App. 3d 734, 738, 685 N.E.2d 12, 14 (1997). In *Pathfinder*, the claimant pulled a coworker's severed hand from a machine, fainted, and subsequently developed psychological problems. *Pathfinder*, 62 Ill. 2d at 559, 343 N.E.2d at 915. In upholding the Commission's award, the Illinois Supreme Court set out guidelines for the compensability of psychological disability absent physical trauma and thus established the mental-mental theory of recovery. *Id.* at 563, 343 N.E.2d at 917. The court held that an employee who "suffers a sudden, severe emotional shock traceable to a definite time, place and cause which causes psychological injury or harm has suffered an accident within the meaning of the Act, though no physical trauma or injury was sustained." *Id.*

¶ 24 To be compensable under the Act, the injury complained of must arise out of and in the course of employment. *Baggett*, 201 Ill. 2d at 194, 775 N.E.2d at 912. In mental-mental cases, a claimant must be engaged in employment at the time and place of the precipitating cause of the injury and must prove that the injury occurred because of a work-related risk or because the employment placed the claimant at risk of exposure exceeding that of the general public. *Id.* at 195, 775 N.E.2d at 913.

¶ 25 In the instant case, the risk the claimant was exposed to arose out of and in the course of his employment. He was responding to a disturbance call when an unstable individual approached him. When he did not immediately do what the individual wanted, the individual pulled a gun and pointed it at the claimant. The claimant did not realize until sometime after the gun was pulled that it was likely a toy gun. Backup was called and the individual returned to his home where an extended standoff occurred. Until the individual was restrained, he was considered by almost 40 officers to be armed and dangerous. Three days after the incident, the claimant had a panic attack. He was subsequently diagnosed with posttraumatic stress disorder. There was a clear causal relationship between the May 29, 2007, event and his disability.

¶ 26 In the instant case, the Commission did not find that the claimant failed to prove any of the *Pathfinder* requirements that he suffered a sudden, severe emotional shock that was traceable to a definite time and place and that caused his psychological injury. Instead, the Commission adopted "a more narrow construction of *Pathfinder* as expressed in the *General Motors* decision." The claimant asserts that the Commission misapplied *General Motors*' interpretation of *Pathfinder*.

¶ 27 In *General Motors*, the personnel director yelled at the claimant after the claimant made repeated requests to change shifts. *General Motors*, 168 Ill. App. 3d at 679-80, 522 N.E.2d at 1261. According to the claimant the personnel director became outraged and responded with "a highly charged invective punctuated by obscene and racial remarks." *Id.* Both the personnel director and the claimant were African-American. *Id.* at 679, 522 N.E.2d at 1261. The claimant testified that the incident left him feeling like less of a man and at the end of his shift he started drinking. *Id.* at 680, 522 N.E.2d at 1261. The claimant developed a

drinking problem, but continued to work his regular shift until six months later when he fell down a flight of stairs at his niece's house. *Id.* More than one year after the yelling incident, the claimant started seeing a psychiatrist. *Id.* The arbitrator denied benefits on the basis that the claimant failed to prove he sustained a compensable, accidental injury. *Id.* at 685, 522 N.E.2d at 1264. The Commission reversed, and the circuit court confirmed the Commission. *Id.*, 522 N.E.2d at 1264-65.

¶ 28 The appellate court examined whether the facts of the case justified an award under the rationale in *Pathfinder*. The court held: "We do not read *Pathfinder* to permit recovery for every nontraumatic psychic injury from which an employee suffers merely because the employee can identify some stressful work-related episode which contributes in part to the employee's depression or anxiety." *Id.* at 687, 522 N.E.2d at 1266. The court concluded that "the supreme court's decision in *Pathfinder* is limited to the narrow group of cases in which an employee suffers a sudden, severe emotional shock which results in immediately apparent psychic injury and is precipitated by an uncommon event of significantly greater proportion or dimension than that to which the employee would otherwise be subjected in the normal course of employment." *Id.* The court went on to clarify that "anxiety, emotional stress or depression which develops over time in the normal course of an employment relationship does not constitute a compensable injury within the holding of *Pathfinder*." *Id.* It further found that "[c]ompensation for nontraumatic psychic injury cannot be dependent solely upon the particular vicissitudes of the individual employee as he relates to his general work environment." *Id.*

¶ 29 The court concluded that the claimant failed to establish, as a matter of law, that he suffered a compensable injury within the meaning of *Pathfinder*. *Id.* The court found that the episode which allegedly precipitated the disability involved an argument between the employee and his supervisor, and while the verbal abuse the claimant suffered was unpleasant, it was an ordinary incident of employment which might be encountered in a great many occupations. *Id.* at 688, 522 N.E.2d at 1266. The court further found that the claimant failed to establish that his disability flowed from the confrontation with the personnel director, because he did not seek treatment for his mental condition until almost 15 months after the incident, there were contradictory statements by the claimant as to the cause of his depression, and the claimant's physician testified that his condition was, in part, a form of male menopause. *Id.*, 522 N.E.2d at 1266-67.

¶ 30 In the instant case, the Commission acknowledged that the claimant's May 29, 2007, encounter with an individual armed with an orange-tipped gun presented a dangerous and precarious situation, but it denied compensation based on a statement taken out of context from *General Motors*. It found that the claimant could not recover because the traumatic incident was not an uncommon event of significantly greater proportion than what he would otherwise have been subjected to in the normal course of his employment as a police officer. The Commission denied the claimant compensation because he "is a police officer and is trained in weapons handling" and is "trained to handle encounters with subjects who are considered armed and dangerous."

¶ 31 Read in context, *General Motors* uses the phrase "an uncommon event of significantly greater proportion or dimension than that to which the employee would otherwise be

subjected in the normal course of employment" to distinguish compensable claims from a mental disability that arises from the ordinary job-related stress common to all lines of employment. This is in keeping with the well-established holding that mental disorders not resulting from a severe emotional shock "must arise from a situation of greater dimensions than the day-to-day emotional strain and tension which all employees must experience." *Chicago Board of Education v. Industrial Comm'n*, 169 Ill. App. 3d 459, 468, 523 N.E.2d 912, 918 (1988). To allow compensation for a gradually developing mental disability which is attributed to factors such as worry, anxiety, tension, pressure, and overwork without proof of a specific time, place, and event producing the disability would "open a floodgate for workers who succumb to the everyday pressures of life." *Id.* at 466, 523 N.E.2d at 917. The instant case is not one where the claimant developed a mental disability attributable to factors such as worry, anxiety, tension, pressure, overwork, and the emotional strain all employees experience. The May 29, 2007, incident was a severe emotional shock traceable to a specific time, place, and event that produced the claimant's disability.

¶ 32 By adopting such a narrow reading of *General Motors*, the Commission ignores that the language it relies on was meant to distinguish between psychic injuries an employee suffers because of a stressful work-related episode that is an ordinary incident of employment which might be encountered in a great many occupations and psychic injuries an employee suffers because of a severe emotional shock traceable to a definite time, place, and cause. Under the Commission's analysis it would be virtually impossible for police officers or others involved in dangerous occupations to qualify for a mental-mental claim. To be compensable under the Act, the traumatic incident must arise out of the claimant's employment as a police officer. It was because the claimant was a police officer that he encountered the subject with a handgun. According to the Commission's analysis, if the incident involves something that the claimant is trained for, it is not an uncommon event out of proportion to the incidents of normal employment activity, and therefore, it cannot be compensable. Under the Commission's analysis, a firefighter who rescued people from the World Trade Center on September 11, 2001, and subsequently developed posttraumatic stress disorder could not recover, because firefighters are trained to rescue people from burning buildings.

¶ 33 While we believe the Commission misinterpreted *General Motors*, we acknowledge that a literal reading of the language in that case, taken out of context, would result in a narrower construction of the standard set forth in *Pathfinder*. A requirement that a claimant prove an event "of significantly greater proportion or dimension than that to which the employee would otherwise be subjected in the normal course of employment," if applied within the context of a claimant's particular occupation, would make it virtually impossible for employees in inherently dangerous occupations to obtain compensation. Nothing in *Pathfinder* requires that the "sudden, severe emotional shock" which must be proved should be considered within the context of the claimant's occupation or training. On the contrary, the *Pathfinder* court specifically noted that the shock experienced by the claimant in that case "would be the reaction of a person of normal sensibilities." *Pathfinder*, 62 Ill. 2d at 567, 343 N.E.2d at 919. Accordingly, we believe that whether a worker has suffered the type of emotional shock sufficient to warrant recovery should be determined by an objective, reasonable-person standard, rather than a subjective standard that takes into account the

claimant's occupation and training. To the extent that the holding in *General Motors* would require, in a mental-mental claim, that the precipitating event be viewed in the context of the claimant's occupation and training, we reject the court's decision in that case and decline to follow it.

¶ 34 The main purpose of the Act is to provide protection for injured workers. *Cassens Transport Co. v. Industrial Comm'n*, 218 Ill. 2d 519, 524, 844 N.E.2d 414, 419 (2006). The Commission applied an incorrect standard of proof and failed to provide compensation to an injured worker in a compensable mental-mental claim. The claimant suffered a sudden, severe emotional shock on May 29, 2007, that resulted in his developing posttraumatic stress disorder. The accident arose out of and in the course of the claimant's employment, and his condition of ill-being was causally related to the accident. The psychological harm the claimant suffered is compensable under the Act.

¶ 35 CONCLUSION

¶ 36 For the foregoing reasons, the judgment of the circuit court of Kane County confirming the decision of the Commission is reversed, the decision of the Commission is reversed, and this cause is remanded to the Commission for further proceedings consistent with this opinion.

¶ 37 Reversed and remanded.

¶ 38 JUSTICE TURNER, dissenting.

¶ 39 I respectfully dissent. Here, the claimant could recover only if he demonstrated his psychological injury was caused by "a sudden, severe emotional shock traceable to a definite time, place and cause." *Pathfinder*, 62 Ill. 2d at 563, 343 N.E.2d at 917. In *Pathfinder*, 62 Ill. 2d at 559, 343 N.E.2d at 915, the claimant had an immediate reaction of fainting when she pulled the coworker's hand out of the punch press and underwent immediate medical treatment following the event. This court has emphasized the limited nature of such compensable, psychological injuries. In *General Motors*, 168 Ill. App. 3d at 687, 522 N.E.2d at 1266, this court concluded the following:

> "[T]he supreme court's decision in *Pathfinder* is limited to the narrow group of cases in which an employee suffers a sudden, severe emotional shock which results in *immediately apparent psychic injury* and is precipitated by an *uncommon event of significantly greater proportion or dimension than that to which the employee would otherwise be subjected in the normal course of employment*." (Emphases added.)

¶ 40 In reversing the Commission in this case, the majority rejects *General Motors*' interpretation of *Pathfinder* to the extent it suggests the determination of whether a sudden, severe emotional shock occurred must be "considered within the context of the claimant's occupation or training." *Supra* ¶ 33. I disagree with that rejection as *General Motors*' interpretation of *Pathfinder* has stood as precedential authority for almost a quarter of a century. See *Runion v. Industrial Comm'n*, 245 Ill. App. 3d 470, 472, 615 N.E.2d 8, 9

(1993); *Jones v. Chicago Transit Authority*, Ill. Workers' Compensation Comm'n No. 10-WC-25860 (Dec. 23, 2011). Moreover, I disagree with the Commission's description of *General Motors* "as a more narrow construction of *Pathfinder*." *Diaz v. Village of Montgomery*, Ill. Workers' Compensation Comm'n No. 07-WC-40520 (May 18, 2010). I believe *General Motors* is a fair interpretation of our supreme court's decision in *Pathfinder*. The claimant's occupation and training are part of the circumstances that must be considered in determining whether an event causing a sudden, severe shock has occurred. Naturally, for an event to cause sudden, severe shock, it must be out of the normal work routine; otherwise it would not cause a shock.

¶ 41 Regardless, the majority should not even reach the issue of the validity of *General Motors*' interpretation of *Pathfinder* because the undisputed facts show the claimant did not suffer a sudden, severe emotional shock. The term "shock" is defined as "a sudden or violent mental or emotional disturbance." Merriam-Webster's Collegiate Dictionary 1079 (10th ed. 2000). The record contains no evidence the claimant had any immediate mental or emotional disturbance when he witnessed a man with a gun that the claimant quickly realized was a toy. The claimant testified he did not experience any immediate anxiety after the incident and was fine the next day as well. It was not until two days after the incident that he felt some anxiety when responding to an accident with injuries. Those facts alone are sufficient to find the claimant did not establish he suffered sudden and severe shock from the gun incident as contemplated by our supreme court in *Pathfinder*. Thus, even if the Commission overemphasized the claimant's employment as a police officer, the facts of this case still do not show an accident under *Pathfinder*. The claimant's training and occupation are just additional facts that make it even less likely the claimant suffered a severe, sudden shock. Accordingly, I would affirm the Commission's decision.

¶ 42 Additionally, while I agree with the *de novo* standard of review used in this case, I note this court utilized the manifest-weight-of-the-evidence standard of review in a recent mental-mental case where the facts were undisputed. See *Chicago Transit Authority v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120253WC, ¶ 23. I find the court's application of the different standards of review inconsistent and disagree with *Chicago Transit Authority*'s reasoning for applying a manifest-weight-of-the-evidence standard. See *Chicago Transit Authority*, 2013 IL App (1st) 120253, ¶¶ 21-23. In my view, no coherent explanation justifies utilizing these inconstant standards.