Kiraly, Leslie Tamas, Psychiatrist

Czombos and Wawanesa

Decision Date: **2017-12-28 Arbitration, Final Decision, FSCO 5447** https://www5.fsco.gov.on.ca/AD/5447

I place minimal weight on the opinions of Mr. Hare and Dr. **Kiraly** about Ms. Czombos' level of impairment on account of mental or behavioural disorders for several reasons.
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Dr. Kiraly

> 1. Dr. Kiraly's opinion is incomplete and unreliable because he did not have access to the pertinent documents reviewed by Dr. Ranney, especially the report of Dr. Gordon Ko and Dr. Gordon Lawson, dated January 9, 2013, the Cognitive Rehabilitation Summary Report, dated October 1, 2013, of Dr. Warriner, the Addendum – Cognitive Rehabilitation Summary Report, dated April 27, 2014, of Dr. Warriner, the Psychological Assessment, dated October 14, 2013, of Dr. Peter Gaskovski, the report, dated June 12, 2014, of Dr. Gaskovski, the report, dated October 1, 2015, of Dr. Ranney, Dr. John Baird's June 9, 2015, Digital Motion X-ray study of Ms. Czombos, and the report, dated January 13, 2016, of Dr. Thornton.
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> 2. Dr. **Kiraly** failed to provide sufficient detailed reasons and analysis to support his conclusion, in the Insurer's Examination Catastrophic Determination Multidisciplinary Addendum, dated December 5, 2016, in which he stated, "After reviewing the new documentation, my opinion about Ms. Czombos' impairment status does not change."
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> 3. Dr. **Kiraly** found Ms. Czombos to have a 27% WPI based on overall moderate level of impairment or Class 3 and her GAF score of 52 to 54 which translates into a 24% to 27% WPI based on the Schedule for Rating of Permanent Disabilities under the provisions of the Labor Code of California.[39] I find, however, that Dr. **Kiraly**'s GAF score is unreliable and is not an accurate reflection of Ms. Czombos' impairments because: (1) A GAF score is only a "snapshot" of the how the person is doing at that moment and may be a poor measure of permanent or long-term mental or behavioural impairment; and (2) No evidence was presented to establish that sufficient GAF scores were taken over a considerable period of time by different qualified assessors with relatively consistent results indicating Ms. Czombos' permanent or long-term mental or behavioural impairment levels.
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> 4. Dr. Kiraly's opinion is based on a sub-stratum of incomplete factual assumptions which do not correlate with, and are unsupported by, the facts proved.

O'Brien and State Farm

Decision Date: **2017-08-28 Arbitration, Final Decision, FSCO 5342**. https://www5.fsco.gov.on.ca/AD/5342

In regards to Dr. **Kiraly**, the Applicant argues that Dr. **Kiraly**'s report relied heavily on Ms. Singh's report and as such is flawed to that extent. The Applicant argues that in several instances, the doctor simply relied on Ms. Singh's findings and opinions when formulating his own opinion, or at times provides no opinion of his own and only refers to her report. Further, Dr. **Kiraly** spent 90 minutes assessing the Applicant in contrast to Dr. Levitt, who took 14 hours over five days. The Applicant's position is that Dr. **Kiraly** did not perform as robust an assessment as did Dr. Levitt.

It was evidenced by Dr. **Kiraly** during his testimony that he did not conduct any collateral interviews of family or friends as did Dr. Levitt, and admitted the importance of same. The Applicant argues that Dr. **Kiraly** intensified

and magnified Ms. Singh's mistake of not conducting collateral interviews, which significantly affects and compromises the conclusions reached in his catastrophic report.

The Applicant argues that when assessing the Applicant's cognitive deficiencies, Dr. **Kiraly** used what Dr. Levitt described as 'screens'. Dr. Levitt's testimony on this point was that screens are not sophisticated testing and it is easy for individuals to do well on screens thus,conclusions from screening are not as reliable. Screens generally provide an idea of what might need to be explored further. As Dr. Levitt testified that he undertook the WAIS-IV, which is referenced in the *Guides*, his testing concluded that the Applicant's processing speed is impaired. He advised that this would not be picked up on simple screens. Dr. Levitt's opinion was that better testing, not screening, was available to determine cognition, which Dr. **Kiraly** chose not to do. Dr. Levitt testified that he undertook six hours of cognitive testing and hisconclusions assisted him in determining that the Applicant's cognition was compromised. This was consistent with the Applicant's subjective complaints and his family's concerns.

Finally, the Applicant argues that Dr. **Kiraly**'s catastrophic report should be given little or no weight in that when asked in cross-examination why the Applicant's psychological diagnoses were not referenced in his conclusions, his response was "he had a good interview", which is contrary to the robust enquiry into the whole person perspective adapted by the *Guides*.

I note the following as turning points in the Hearing which provided guidance to me in coming to my award, which are as follows:

1. The Applicant and the lay witnesses who testified on behalf of the Applicant were genuine, consistent and believable. The veracity and conviction of their evidence is not in question;

2. During his testimony Dr. **Kiraly** spontaneously upgraded his report's conclusions. He increased three domains from Mild to Moderate levels, when comparing the two reports in hindsight;

3. When asked about his definition of "significantly impedes useful functioning" when determining where to place a client in terms of a Class 3 versus Class 4 Impairment, the doctor stated he thinks "all" useful functioning should be impeded. In reaching this conclusion, he then relied upon the fact that the Applicant looks after one or two of his children at a time for short times, the Applicant can and continues to drive, and participates in family functions. As these are useful functions, he concluded the Applicant is not significantly impeded in all of his functions.

Decision No. 1601/12, 2012 ONWSIAT 2724 (CanLII), <http://canlii.ca/t/fwjw9

> [25] Dr. Kiraly initially saw the worker on June 17, 2009. In his consultation report of June 20, 2009, Dr. Kiraly diagnosed the worker with major depressive disorder with psychotic features and chronic pain syndrome. In follow-up on August 1, 2009, the worker reported some improvement with medication. Dr. Kiraly maintained the prior diagnoses. On August 25, 2009, Dr. Kiraly commented that there was an apparent relationship between the worker's depression and the workplace injury.
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> [26] We have considered the opinion of Dr. Kiraly regarding the relationship between the worker's depression and the workplace accident. We did not find Dr. Kiraly's opinion to be persuasive in this case for the following reason. Dr. Kiraly's conclusion was premised on an assumption that the worker developed mood and depressive symptoms following the workplace accident. However, Dr. Kiraly only began treating the worker on June 17, 2009. He was not treating the worker since the date of the accident, some nine years earlier in 2000. It appeared from the report that Dr. Kiraly arrived at the conclusion regarding the onset of the manifestation of the worker's symptoms based on what the worker reported to him at the initial consultation, which took place nine years after the accident, on June 17, 2009. As we outlined above, the medical documents from the worker's treating physicians contemporaneous in

time to the accident did not indicate that the worker had mood or depressive symptoms as of the date of the accident or within five years of it.

[27] We also find that the worker's testimony did not support Dr. Kiraly's assumption, as the worker testified that his emotional problems were caused by his imprisonment many years prior to the workplace accident. The worker told Dr. Kiraly that he had crying episodes. However, in testimony, when asked why he cried, the worker stated that he cries often because his right eye is watery and tearful, particularly if he does not wear sunglasses. The worker linked his crying to an organic problem with his right eye, rather than a psychological condition related to depression. The worker testified that he had suicidal tendencies that he discussed with his doctor. However, Dr. Goldhar wrote in a clinical note dated April 11, 2005 that the worker was not suicidal. Dr. Kiraly also observed in June 2009 that the worker was not suicidal or homicidal. Furthermore, it is instructive that in a decision from the Social Benefits Tribunal, based on a hearing that was held on April 15, 2008, the worker did not mention that he had any depressive symptoms related to the workplace injury. Although during that hearing the worker mentioned the consequences of his right eye injury to be the several organic problems and difficulties with activities of daily living, he did not identify depression as a consequence of his organic eye impairment.

[28] It appeared that Dr. Kiraly did not review the clinical notes or reports of the worker's treating family physicians or specialists to determine if the worker had exhibited any mood or depressive symptoms since the date of the accident. His report did not make mention of reviewing any of the worker's prior medical records. Dr. Kiraly based his conclusion only on what he was told by the worker. However, the preponderance of the evidence did not support the worker's statement to Dr. Kiraly. The preponderance of the evidence did not support the assumption of Dr. Kiralythat the worker developed mood and depressive symptoms as of the date of workplace accident, as there was no indication of this in the medical documents contemporaneous to the accident from the worker's family physicians and specialists. Dr. Kiraly's conclusion regarding the relationship between the worker's depression and the workplace injury was based on the assumption that the worker's depressive symptoms began shortly after the workplace accident. We cannot put weight on Dr. Kiraly's opinion in this particular case as that assumption was not borne out by the preponderance of the evidence before us.