CASE NO. 5647 CRB-7-11-4 : COMPENSATION REVIEW BOARD
CLAIM NO. 700129238

MARILYN MARTINEZ-MCCORD
CLAIMANT-APPELLANT : WORKERS' COMPENSATION COMMISSION

v.

: AUGUST 1, 2012

STATE OF CONNECTICUT/
JUDICIAL BRANCH
EMPLOYER
SELF-INSURED
RESPONDENT-APPELLEE

and

GALLAGHER BASSETT SERVICES, INC.
ADMINISTRATOR

APPEARANCES:

The claimant was represented by Steven D. Jacobs, Esq., Jacobs & Jacobs, LLC, 700 State Street, Third Floor, New Haven, CT 06511.

The respondent was represented by Lawrence G. Widem, Esq., Assistant Attorney General, Office of the Attorney General, 55 Elm Street, PO Box 120, Hartford, CT 06141-0120.

This Petition for Review[1] from the April 11, 2011 Finding and Dismissal of the Commissioner acting for the Seventh District was heard January 20, 2012 before a Compensation Review Board panel consisting of the Commission Chairman John A. Mastropietro and Commissioners Jodi Murray Gregg and Daniel E. Dilzer.

[1] We note that a postponement and extensions of time were granted during the pendency of this appeal.

OPINION

JOHN A. MASTROPIETRO, CHAIRMAN: The claimant in this matter has appealed from a Finding and Dismissal issued April 11, 2011, which denied the claimant's bid for temporary total disability benefits. The claimant sought these benefits alleging she suffered from RSD (reflex sympathetic dystrophy) as a result of a compensable injury. The trial commissioner denied this claim. The claimant argues the trial commissioner should have recused herself, alleging she was biased against the claimant as a result of having heard a previous claim from the claimant and ruling against her. As the claimant views the circumstances herein, the Finding and Dismissal must be vacated and the matter be remanded for a trial de novo before a different trial commissioner.

We disagree. Our review of the precedent advanced by the claimant does not persuade us that as a matter of law, the trial commissioner was obligated to recuse herself from hearing this claim. The standard of whether recusal of a trial commissioner is required is whether the commissioner believes he or she is unable to render a fair and impartial decision due to their personal opinions of the claimant or their counsel. The trial commissioner herein did not believe she was unable to render an impartial judgment and the record reflects no circumstances unrelated to the evidence on the record which would have acted to impair the commissioner's independent judgment.

In addition, we have reviewed the evidence the trial commissioner relied on in deciding this matter. She relied in great measure on the opinions of the commissioner's examiner. These opinions were adverse to the claimant. We conclude that as the commissioner's examiner is ordinarily accorded great weight in resolving contested

medical issues that this would have generally led to the dismissal of the claim no matter which commissioner decided the case. As the trial commissioner's decision herein was based on such probative medical evidence we affirm the Finding and Dismissal.

The following facts are pertinent to our discussion. The trial commissioner took administrative notice of the previous filings for the claim pertaining to the claimant's injury, including her September 20, 2007 Finding and Dismissal, which this board upheld in Martinez-McCord v. State/Judicial Branch, 5275 CRB-7-07-9 (September 12, 2008). ("Martinez-McCord II"). The commissioner also took administrative notice of our decision in Martinez-McCord v. State/Judicial Branch, 5055 CRB-7-06-2 (February 1, 2007), ("Martinez-McCord I"), where this tribunal upheld a Finding and Order reached by former Commissioner James Metro. These decisions adjudicated the claimant's bid for temporary total disability benefits for periods prior to March 12, 2007.

At the formal hearing for the instant claim for benefits, the claimant testified that she has trouble with her left arm and that she can barely feel her right arm. The right arm is cold all of the time and painful all of the time and the claimant testified to similar conditions about her neck, shoulder and low back. She testified that she tries not to use her right arm to lift anything, only to attend to personal hygiene. Further, she testified that she has not engaged in any activities with her right arm since she was injured in November of 2001. The trial commissioner noted she did not visually observe any atrophy to the claimant's right arm at the hearing and the claimant did not present a medical report to corroborate atrophy to the right arm due to non-use. Findings, ¶¶ 6-7. The trial commissioner noted the claimant had offered somewhat differing testimony as to whether her condition had changed in recent years. Findings, ¶¶ 8, 9, 13. The

claimant testified that she could not be employed as a process server as some days she does not feel well. The claimant also denied she could be employed as a school crossing guard or as a school bus driver; and testified she had not sought employment since 2007. Findings, ¶¶ 18-20.

The trial commissioner also noted other testimony from the claimant as to her activities of daily living. The claimant testified that it hurts her to sit or stand for any length of time, and testified that a number of times a week it hurt to get out of bed. The claimant testified that she is still able to drive a car. She drives her son to school every day and then drives to any doctor's appointments that she might have. She uses both hands to move the automatic gear shift. The claimant also testified she is able to walk, shop, put groceries in her cart and unload light objects, primarily with her left arm. She also walks her dog. Findings, ¶¶ 14-17.

The respondent presented Brian Cyr, a former state police officer and owner of a private investigation firm, as a witness. He testified the claimant could physically perform various tasks in that field such as serving subpoenas, handling cameras and doing background checks. Findings, ¶¶ 21-25. On the other hand, the claimant's treating physician, Dr. Richard Roseff, opined the claimant was not capable of light duty work now or in the foreseeable future. Findings, ¶ 27. On December 6, 2007, Dr. Roseff performed a thorough examination of the claimant and found her to be at maximum medical improvement. He rendered a 14% permanent partial disability of the claimant's cervical spine and a 32% permanent partial disability of the claimant's right shoulder. Findings, ¶ 26. Dr. Roseff had prescribed Lyrica (used to treat seizures, nerve pain from diabetes and fibromyalgia), Duragesic patches (provides long-lasting relief from

moderate to severe chronic pain), Flexor (pain reliever for musculoskeletal injuries and conditions), Abilify (antipsychotic medication used to treat schizophrenia, bipolar disorder and clinical depression) and Trazedone (treats depression and anxiety disorders), however, the claimant said none of these medications had helped her use her right arm or have lessened the pain. Findings, ¶ 10. An October 17, 2008, office note from Dr. Roseff notes allodynia and hyperpathia (painful sensation in response to a normally innocuous stimulus) in the claimant's upper right extremity; however, he noted that his neurologic exam revealed normal proximal strength. He also noted no observation of atrophy in the claimant's right upper extremity. Findings, ¶ 31.

The trial commissioner noted evidence presented from various other professionals such as Stanley Rosner, Ph.D., the claimant's treating psychologist, Dr. Kenneth A. Miller, a rheumology expert retained by the respondent, and James S. Cohen, Ph.D., CRC, LPC, ABVE, the respondent's vocational rehabilitation specialist. Findings, ¶¶ 34, 35, 38. The commissioner also noted the testimony and report of Robb D. Wright, OTR/L, a functional capacity evaluator, who attempted to conduct a functional capacity evaluation ("FCE") on the claimant. Findings, ¶ 38. The evaluation was eventually terminated due to the fact that the claimant felt that she could no longer continue the process. Prior to the claimant terminating the FCE, Mr. Wright noted "performance and presentation inconsistencies are noted along with non-organic findings, mal adaptive pain presentation and no manner of effort relative to means of adaptation or compensation." Id. Mr. Wright also noted inconsistencies in the claimant's performance of the Rapid Exchange Grip Test; noted the claimant was positive for four out of five Waddell tests; and his report indicates that the claimant presented to him with "no ready signs of

swelling, discoloration or temperature change as both [arms] are cool but equally so." The Wright report also contained photographs of the claimant's arms evidencing no atrophy. Findings, ¶ 37.

On May 10, 2010, Dean J. Mariano, D.O., the Commissioner's Examiner, of Midstate Medical Center, Spine and Pain Institute, examined the claimant. Findings, ¶ 40. He concluded that she did not in the past, and does not now, suffer from complex regional pain or RSD. Dr. Mariano noted the claimant had pain to light touch of the fingers, but she was able to hold a tissue in her hand and fingers and manipulate the tissue without any signs of pain during the interview. She was also able to move the arm in flexion, extension and supination, during the interview on her own and rested her right hand on her right thigh during the interview without significant pain. Dr. Mariano further noted that there is no sign of atrophy in her arm or forearm region, no abnormal hair growth pattern on the upper extremity, no trophic signs in the nail beds or any thinning of the skin in the right upper extremity. Dr. Mariano also reviewed a surveillance video of the claimant from 2002 and 2003 and noted fluid movement of the right arm, normal use without any signs of pain, discrepancy, or favoritism of the right arm. Findings, ¶¶ 41-42. Dr. Mariano was deposed on August 4, 2010. He testified he had treated about 100 patients with RSD and while patients with RSD may have symptoms that wax and wane, he had never witnessed a patient like the claimant who moves from being severely allodynic to having full function with no symptoms whatsoever. Dr. Mariano suggested that claimant undergo a neuropsychiatric evaluation. Findings, ¶ 43.

Dr. Roseff testified to rebut Dr. Mariano's conclusions. He testified he had treated one or two patients a year with RSD, over a 24 year career. He has treated the

claimant for a diagnosis of RSD and fibromyalgia since 2005. He based his diagnosis of RSD on the diagnosis of the orthopedic surgeon that treated her before he commenced treating her, as well as due to hyperalgesia (increased sensitivity to pain); occasional coolness and swelling of her right arm; and limited range of motion in her right shoulder. He did not remember the name of the previous treating orthopedic surgeon. He adhered to this diagnosis despite the fact that the claimant's second bone scan was negative and all the other traditional indicators of RSD are simply not present. Dr. Roseff states that a negative bone scan, the absence of atrophy in the affected limb, and no abnormal hair growth pattern on the upper extremity, etc., would not necessarily rule out a diagnosis of RSD. Dr. Roseff acknowledges that he has never taken any temperature readings of the claimant's affected arm and determined that there was a difference in the temperatures of her arms simply by touching them. Dr. Roseff reviewed the video-taped surveillance of the claimant in this case and states that there is nothing in the surveillance that is inconsistent with her diagnosis. Findings, ¶ 44.

Based on this evidence, the trial commissioner concluded that prior hearings in 2006 and 2007, as documented in Martinez-McCord I and Martinez-McCord II had denied the claimant benefits based on her allegation that she suffered from RSD. Conclusion, ¶ H. The trial commissioner found Dr. Roseff's medical opinion that the claimant suffered from this condition not to be persuasive. She noted that the witness adopted the diagnosis from a prior treater and did not account for the lack of atrophy in the claimant's arm. She also noted that Dr. Roseff did not account for the on again/off again nature of the claimant's symptoms as documented by Rob Wright's FCE examination and Mr. Cyr's surveillance. Conclusion, ¶ G. On the other hand, the trial

commissioner found Dr. Mariano's opinion persuasive, as well as that of Dr. David Levi, who had examined the claimant on behalf of the respondent in 2003. Conclusion, ¶ F. These experts had opined the claimant did not suffer from RSD. The trial commissioner found the various permanent disability ratings which attributed RSD to the claimant to be unreliable, but found that Dr. Roseff's 14% permanent partial disability rating of the cervical spine had not been challenged by the respondent. Conclusions, ¶¶ L-N. She suggested that a neuropsychiatric evaluation as suggested by Dr. Mariano would be advantageous. Conclusion, ¶ O.

Based on these conclusions, the trial commissioner ordered the respondent to pay the claimant permanent partial disability benefits based on a 14% impairment of the cervical spine and denied the claim for temporary total disability benefits. The claimant filed a Motion to Correct seeking to interpose findings regarding the medical evidence more favorable to her claim. This motion was denied. The claimant then commenced the instant appeal, which is focused on one issue: the trial commissioner erred in even holding this hearing and should have recused herself.[2]

As the claimant views this situation, the trial commissioner should not have heard her claim in 2008 because in 2007 she had issued a Finding and Dismissal in Martinez-McCord II. "In finding against the claimant and dismissing her claim, Commissioner Truglia relied in large measure on the claimant's credibility." Appellant's Brief, p. 3. The claimant believes that having considered issues related to her credibility at an earlier hearing, the trial commissioner herein was barred from ever hearing another matter

[2] The claimant raised a number of other issues initially in her Reasons for Appeal. As these other issues were neither briefed nor addressed in oral argument before this tribunal, we deem them abandoned on appeal. Christy v. Ken's Beverage, Incorporated, 5157 CRB-8-06-11 (December 7, 2007); St. John v. Gradall Rental, 4846 CRB-3-04-8 (August 10, 2005).

concerning her claim. The claimant does not proffer any precedent from our tribunal which is directly on point. Instead, she argues this situation violates Canon 3 (c)(1)(a) of the Code of Judicial Conduct, which reads;

> A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

The claimant's argument herein is that the trial commissioner's view of the claimant's credibility, primarily as to what she related to her medical providers, was so ingrained from having heard Martinez-McCord II that the commissioner was unable to reach a fair determination of the evidence presented in this case. The record herein reflects that the question was posed directly to the trial commissioner at the inception of the hearing and she made an affirmative representation that she had no personal bias or prejudice against the claimant. At the April 23, 2008 formal hearing, counsel for the claimant was asked by the trial commissioner if his position was "every Commissioner who finds the testimony of a Claimant lacking credibility to be recused from any further proceedings forever and a day in that particular matter?" April 23, 2008 Transcript, p. 7.

Counsel responded that was not his argument but "I found this case to be an exceptional one," id., alleging the commissioner had gone beyond her function as the assessor of evidence. Id., p. 8. The trial commissioner responded to this averment.

> As I recall, Attorney Jacobs, my findings were based upon the weight of the medical evidence, much of which was critical of your client's presentation in the office, in the doctor's office. And I simply used those characterizations by the doctors themselves as the basis for concluding that her credibility was in jeopardy. They weren't my assessments. I certainly never examined this lady in any office. I only met her the one time we had this

> particular hearing. And I had to rely upon the opinions and the assessments of the treating physicians who evaluated her. So they're not my opinions. But my opinion necessarily had to be based upon a compilation of the objective, in some cases subjective, opinions of the people who treated her. They don't necessarily make it - - it doesn't necessarily make it my personal opinion.

Id., pp. 8-9.

Counsel for the claimant then denied that the trial commissioner harbored any personal bias against the claimant. Id., p. 10. Nonetheless, he returned to the argument that the prior credibility determination in Martinez-McCord II constituted a conclusion that the claimant was deceitful and this mandated a recusal. Id., pp. 11-15. There was no ruling from the bench on this motion at that hearing. The matter was raised again at the formal hearing on July 28, 2010. The trial commissioner explained her rationale for hearing the case.

> Yes, the basis of your Motion to Recuse was that my prior decision in McCord II was such that you felt I had indicated the claimant was deceitful. In oral argument I asked you to point to one word in my decision in McCord II that used the word deceitful or in any way intimated that she was deceitful. And you admitted on the record that there was no such language in the decision that she was deceitful.
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> The only thing I quoted in that decision was the testimony of Mark Rubinstein, who was a psychiatrist, who indicated that he felt she had a condition, a psychological condition, with a functional overlay whereby she could legitimately convince herself that she had a malady that didn't exist and that that was a legitimate psychiatric condition, not in the least bit considered malingering where someone can psychiatrically convince themselves of the condition.
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> That's all I quoted. That didn't equal deceit. You couldn't actually argue once you got to the formal hearing on the Motion to Recuse that I had in any way indicated she was deceitful. And I still don't feel that way.

July 28, 2010 Transcript, p. 16.

The claimant cites a number of cases in support of her argument. We find none are directly on point and all may be distinguished from this case. The claimant argues Ford v. Ford, 52 Conn. App. 522 (1999), established that the trial commissioner should have recused herself. However, in Ford, the trial judge went on the record acknowledging he personally had a poor opinion of the manner in which one party's attorney had conducted himself. Id., 526-529. The record herein indicates no representation by the trial commissioner of any personal animus against the claimant or her counsel. Instead, the commissioner indicated her prior findings in Martinez -McCord II were essentially a restatement of expert opinions submitted as evidence. The commissioner further explained she had no personal knowledge as to the claimant's demeanor at the various medical examinations which were documented as evidence. This circumstance is not akin to Ford, supra, where the trier of fact had formed a personal opinion of a witness based on matters outside the evidence on the record.[3]

We further note that since the early days of Workers' Compensation in Connecticut, the recusal of trial commissioners has been disfavored except for circumstances under which a trial commissioner determined on his or her own that their impartiality was at issue. See Saddlemire v. American Bridge Co, 94 Conn. 618 (1920). "Every effort should be made to avoid disqualification, so that the same Commissioner may conduct the subsequent hearing, or the hearing for a modification of the original award." Id., 627. While a policy exists to try and cause pre-formal hearings to be heard

[3] Ford v. Ford, 52 Conn. App. 522 (1999) was also distinguished by the Appellate Court in State v. Martin, 77 Conn. App. 778 (2003). The trial judge there was found not to face an issue as to impartiality as unlike the judge in Ford, "Judge White did not have any negative feelings about any witnesses." Id., 790.

by a different commissioner than the commissioner who hears the formal hearing, Rogers v. C.N. Flagg Power, 3809 CRB-6-96-5 (June 23, 2000), "unlike the superior court, which employs over 160 judges, the workers' compensation commission has only fifteen commissioners to hear formal hearings in the eight district offices. Accordingly, the judiciary has the ability to maintain a strict policy of recusal, whereas here it is an impracticality." Id. In Rogers, this board held that "the determination of whether a commissioner has heard prior evidence in a matter, and whether having heard such evidence may affect his or her ability to hear the case, is solely within the discretion of the trial commissioner. . . . Only the trial commissioner can know whether what he or she has heard will impact his or her ability to fairly preside over the formal hearing." Id. We reiterated in Doe v. State/Dept. of Correction, 4841 CRB-4-04-8 (June 7, 2005), that a trial commissioner's decision on whether to recuse him or herself was a discretionary matter, *citing* Osterlund v. State, 129 Conn. 591 (1943). "Once a trial commissioner has made a determination that he or she should be disqualified from hearing a case, it is not the place of an appellate board to second-guess that decision." Doe, supra.[4] [5]

The claimant is seeking what is the extraordinary remedy of remanding the matter for a new hearing after receiving an unfavorable result from a trier of fact whom they sought to recuse. The alleged bias was due to the trier of fact having ruled on matters involving the same party earlier. We note that the Connecticut Supreme Court recently

[4] The claimant *cites* Romeo v. H & L Chevrolet, Inc., 10 Conn. Workers' Comp. Rev. Op. 72, 1149 CRD-7-90-12 (March 31, 1992) as supporting her Motion for Recusal. We note in Romeo this tribunal did not grant the claimant's Motion for Recusal on appeal.

[5] In a reply brief, the claimant *cites* Flamenco v. Independent Refuse Service, 130 Conn. App. 280 (2011) as supporting her argument that the trial commissioner should have recused herself. We find this case inapplicable to the issues at hand. The trial commissioner in Flamenco erred by imposing a penalty without holding an evidentiary hearing; which is not at all congruent with reaching findings subsequent to a fully contested adversarial hearing.

considered very similar issues in State v. Rizzo, 303 Conn. 71 (2011). In Rizzo, the defendant alleged error as the trial judge who heard his criminal trial served on a three judge penalty phase panel. Id., 112. The appellant argued the judge's prior involvement in the case tainted his participation in the penalty hearing. The Supreme Court rejected this argument, noting in part,

> …opinions that judges may form as a result of what they learn in earlier proceedings in the same case ''rarely'' constitute the type of bias, or appearance of bias, that requires recusal. See *Liteky* v. *United States*, supra, 510 U.S. 554.40. To do so, an opinion must be ''so extreme as to display clear inability to render fair judgment.'' Id., 551. In the absence of unusual circumstances, therefore, equating knowledge or opinions acquired during the course of an adjudication with an appearance of impropriety or bias requiring recusal "finds no support in law, ethics or sound policy." *People* v. *Moreno*, 70 N.Y. 2d 403, 407, 516 N.E. 2d 200, 521 N.Y.S. 2d 663 (1987).

Id., 121.

The claimant's argument herein is on all fours with the argument the appellant raised in Rizzo that the Supreme Court rejected: that the trier of fact was biased as a result of opinions formed earlier in the proceedings. We must review the evidence presented to ascertain if the trial commissioner followed the reasonable inferences of the evidence, or reached findings which lacked factual foundation, McFarland v. Department of Developmental Services, 115 Conn. App. 306, 318-320 (2009). Only if the findings lack factual foundation would the ultimate decision in this matter constitute the sort of "extreme" or "unusual" result where a lack of recusal denied the claimant due process. Rizzo, supra.[6]

[6] We also note that the trial commissioner was entitled to rely on the "law of the case" doctrine and to rely on the prior rulings in Martinez-McCord I and Martinez-McCord II concerning this claim for benefits. See Gilbert v. Ansonia, 5342 CRB-4-08-5 (May 14, 2009) and Bailey v. Stripling Auto Sales, Inc. d/b/a Willimantic Dodge/Nissan, 4516 CRB-2-02-4 (May 8, 2003).

We note that the trial commissioner found the Commissioner's examiner, Dr. Mariano, a persuasive witness. Conclusion, ¶ F. Dr. Mariano examined the claimant on May 10, 2010, and issued a report following this examination. He was deposed for approximately two hours on August 4, 2010. Respondent's Exhibit 11. Counsel for the claimant extensively probed the witness's reasoning at this deposition. Following this deposition he amended his original report of the May 10, 2010 examination. That amended report specifically opined the claimant was not totally disabled as a result of reflex sympathy dystrophy. Id.

During the deposition, Dr. Mariano was asked why he concluded after viewing the surveillance tape that the claimant was not suffering from RSD. Dr. Mariano testified as follows,

> Well, people with complex regional pain syndrome are encouraged to use the affected limb. Ms. Martinez McCord is using the affected limb without any signs of any condition whatsoever. She is using it with simple grasping, normal arm swings, being able to apply a considerable amount of pressure onto the extremity, able to lift objects out of a shopping cart, including her bags and everything else, without any sign of any hesitancy or motion that she may have an issue with the extremity. She is using it in a normal physiologic motion that any normal person would use an arm that is not affected.
>
> I have never seen a person with complex regional pain syndrome have severe allodynia in a place that she is stating to me and then completely have reversal of condition to be able to use the extremity in a normal - - a completely normal pattern for a period of time and then revert back to having severe allodynia and complex regional pain stage one type condition.

Id., pp. 42-43.

Dr. Mariano also testified that his opinion was based, not just on the videotape, but also on "the other physical exam findings that do not correlate to a long sustaining of

complex regional pain." Id., p. 42. Dr. Mariano also noted the claimant had a negative bone scan and "[a] normal bone scan is actually an objective finding stating that she probably does not suffer from complex regional pain syndrome." Id., p. 44. Dr. Mariano also testified that he found Dr. Levi's prior examination of the claimant relevant to forming his opinion. Id., p. 50. Dr. Mariano testified that as the claimant had undergone ganglion blocks and had received no relief from these diagnostic injections, that from an objective standpoint this states the claimant did not suffer from complex regional pain syndrome, as his experience was such patients received improvement from such treatment. Id., pp. 50-51. Dr. Mariano further testified that he had read the report of Dr. Rubenstein concerning the claimant, and none of the test results administrated caused him to disagree with Dr. Rubenstein's conclusions or opinions. Id., p. 58. Dr. Mariano specifically recommended the claimant undergo a neuropsychiatric evaluation. Id., p. 60.

The trial commissioner's conclusions are therefore consistent with the opinions rendered by the commissioner's examiner. As we held in Damon v. VNS of CT/Masonicare, 5413 CRB-4-08-12 (December 15, 2009) and Carroll v. Flattery's Landscaping, Inc., 5385 CRB-8-08-10 (September 24, 2009) "[w]e have previously explained that the usual purpose of a § 31-294f examination is to provide strong guidance to a commissioner," and "[t]his board favors an articulation when a trial commissioner does not follow that opinion." Id., *citing* Gagliardi v. Eagle Group, Inc., 4496 CRB-2-02-2 (February 27, 2003), *aff'd*, 82 Conn. App. 905 (2004)(Per Curiam). A trial commissioner who does not find a commissioner's examiner persuasive generally should proffer a reason why another expert witness was more persuasive. See Alvarez v. Wal-Mart Stores, Inc., 5378 CRB-5-08-9 (July 27, 2009); Torres v. New England Masonry

Company, 5289 CRB-5-07-10 (January 6, 2009) and Ben-Eli v. Lowe's Home Improvement Center, 5006 CRB-3-05-10 (November 16, 2006). The trial commissioner herein found Dr. Mariano's opinion persuasive and she was legally entitled to do so.

The claimant in this matter needed to prove to the trial commissioner's satisfaction that her condition had changed since the prior adjudication that she was not temporarily totally disabled as a result of RSD. See Marandino v. Prometheus Pharmacy, 294 Conn. 564, 583-587 (2010) and Schenkel v. Richard Chevrolet, Inc., 5302 CRB-8-07-12 (November 21, 2008), *aff'd*, 123 Conn. App. 55 (2010). The trial commissioner was not persuaded and this conclusion was consistent with the independent expert opinion presented to the trier of fact. We do not find this decision "vitiates logic" In re Shaquanna M., 61 Conn. App. 592, 603 (2001) and thus must be vacated. The decision herein is consistent with the record. Therefore, we affirm the Finding and Dismissal.[7]

Commissioners Daniel E. Dilzer and Jodi Murray Gregg concur in this opinion.

[7] We uphold the trial commissioner's denial of the claimant's Motion to Correct. This motion sought to interpose the claimant's conclusions as to the law and the facts presented. To the extent "undisputed" facts were not added to the record, they would not have compelled a different result. Liano v. Bridgeport, 4934 CRB-4-05-4 (April 13, 2006) and D'Amico v. Dept. of Correction, 73 Conn. App. 718, 728 (2002), *cert. denied*, 262 Conn. 933 (2003).