

CASE NO. 6488 CRB-6-22-10 : COMPENSATION REVIEW BOARD
CLAIM NO. 100193405 & 100202616

PATRICIA BUCHANAN, SURVIVING : WORKERS' COMPENSATION
SPOUSE OF PAUL BUCHANAN, COMMISSION
DECEASED
CLAIMANT-APPELLANT

v. : NOVEMBER 3, 2023

TOWN OF EAST HARTFORD/
POLICE DEPARTMENT
EMPLOYER

and

WORKERS' COMPENSATION TRUST
INSURER
RESPONDENTS-APPELLEES

APPEARANCES: The claimant was represented by James M. Quinn,
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The respondents were represented by Timothy D.
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This Petition for Review from the October 5, 2022
Finding and Dismissal of Daniel E. Dilzer,
Administrative Law Judge acting for the First
District, was heard March 31, 2023 before a
Compensation Review Board panel consisting of
Chief Administrative Law Judge Stephen M.
Morelli and Administrative Law Judges Toni M.
Fatone and Soline M. Oslena.¹

¹ We note that a motion for continuance was granted during the pendency of this appeal.

OPINION

STEPHEN M. MORELLI, CHIEF ADMINISTRATIVE LAW JUDGE. The claimant, widow of the decedent, Paul Buchanan, has appealed from the October 5, 2022 Finding and Dismissal issued by Administrative Law Judge Daniel E. Dilzer with respect to her eligibility for survivor's benefits pursuant to General Statutes § 31-306. In his decision, the trial judge held that the decedent suffered from post-traumatic stress disorder (PTSD) as a result of witnessing multiple traumatic events during the course of his employment as an East Hartford police officer.² In doing so, he characterized the PTSD as an occupational disease peculiar to police officers. Additionally, although the trial judge found that the claimant suffered a physical injury on January 15, 2013, he did not find that the physical injury aggravated the decedent's underlying mental health condition, thereby causing him to take his own life on March 12, 2013. Instead, the trial judge found that the decedent's suicide was caused by a major depressive disorder coupled with medication management issues and sleep disturbance unrelated to his employment as a police officer. In reviewing the evidence, we find the trial judge's decision to be clearly erroneous. We further find that he misapplied the law to the underlying facts and, therefore, reverse the decision as written.

The parties to this action both focused their legal arguments on the compensability of the decedent's PTSD condition. The issue as framed to the trial judge at the formal hearing was whether the PTSD was compensable as the law was written on the dates of injury. The parties further concentrated their arguments on whether the

² The decedent's date of hire with the East Hartford Police Department was July 24, 1989. He continued as an employee of the department until his death on March 12, 2013.

smoke inhalation on January 15, 2013 was a physical injury that aggravated the decedent's pre-existing mental health condition and, if so, was the PTSD a proximate cause of his suicide two months later. Based on these legal arguments as set forth by the parties, the trial judge focused his decision primarily on the diagnosis of PTSD and made numerous factual findings with respect to that diagnosis, the causal connection between that diagnosis and the decedent's employment, as well as the proximate cause of his suicide.

Among the factual findings of the trial judge were that the stress of police work weighed heavily on the decedent and, after about ten years on the job, his sleep became restless; he would awaken in the middle of the night and pace due to nightmares; and he began to lose interest in activities that he formerly enjoyed such as golf and tennis. See Findings, ¶¶ 4-5. The emotional trauma to which the decedent was exposed during his career included a co-worker, Officer Brian Aselton, being murdered; a fire and murder/suicide of a family in 2006 to which he responded; and a teenager who died in his arms after he had been stabbed. See Findings, ¶ 37.

In approximately 2002, the decedent was prescribed medication for anxiety by Raymond Kurker, his primary care physician. See Findings, ¶ 6. During the course of the next decade, the decedent was prescribed various medications to help with his anxiety and depression. See Respondent's Exhibit 1. Also, during this time period, several changes were made to his job duties, including reassignment to administrative duties. Eventually, however, the decedent returned to patrol work. See Findings, ¶¶ 7-9. According to the claimant, when the decedent returned to patrol duties, she noticed it was hard for him, that he began having sleepless and restless nights again, and he lost his

appetite resulting in weight loss. She also testified that the decedent was afraid to reach out for help because he thought that he could be relieved of his weapon if his employer became aware of his condition. See Findings, ¶ 10.

The claimant also testified that the school shooting that occurred in Sandy Hook on December 14, 2012 greatly disturbed the decedent. See Findings, ¶ 11. He underwent an EAP assessment on December 18, 2012, at which time he was diagnosed with anxiety. It was suggested that a re-evaluation of his medications be undertaken and that he learn relaxation techniques. See Claimant's Exhibit H. On December 24, 2012, the claimant implored the decedent to get help. She searched the internet and called their insurance carrier to get names of psychiatrists and social workers and was able to get him an appointment with Kari A. Jones, a psychiatrist at Eastern Connecticut Health Network (ECHN), Manchester Memorial Hospital. See Findings, ¶ 12. The decedent was evaluated the same day. Diagnoses of depression and anxiety were made and the records noted that Cymbalta was not working and that the decedent was concerned about losing his job if his condition became public. See Claimant's Exhibit I. The decedent continued to be treated at ECHN through February 2013.

In late 2012 and early 2013, the decedent's symptoms included racing thoughts, panic attacks, sadness, sleep disturbance, loss of appetite, low self-esteem, decreased energy, and a lack of motivation. During a December 27, 2012 appointment, Jones diagnosed the decedent with panic disorder without agoraphobia. Jones also provisionally diagnosed depression, which indicated that symptoms were present but that the patient did not meet the full criteria for a definitive diagnosis. See Findings, ¶ 14. On January 4, 2013, a plan was set forth to discontinue Viibryd and Xanax and replace those

medications with Effexor and Klonopin. The Effexor would be gradually increased over a several week period. See Claimant's Exhibit J.

On January 15, 2013, the decedent was working an overnight shift when he responded to a serious fire at the Gateway Estates. He later told his wife that residents were jumping from windows and children were being thrown to safety. See Findings, ¶ 19. During the period that the decedent was at the fire scene, Todd Hanlon, a Lieutenant with the East Hartford Police Department, found the decedent to be "babbling" and asked another co-worker, Officer Zulick, to accompany the decedent to the hospital directly from the scene. Findings, ¶ 20. Medical records from Hartford Hospital noted that the decedent complained of being lightheaded and weak but that he denied chest pain and shortness of breath. It was further noted that his weakness and fatigue were from an unknown etiology. A possible smoke inhalation injury was also noted. See Claimant's Exhibit D. The decedent was kept overnight, was discharged the next morning, and was transported home by Officer Michael Morelli. See Findings, ¶ 21. The decedent informed Morelli that he was very shaken and upset and that he wasn't doing very well. See Findings, ¶ 22. When Morelli inquired about possible smoke inhalation as described in Sergeant John Dupont's report, the decedent told him that the hospitalization was not the result of smoke inhalation and, instead, described a chaotic and horrific scene that was the worst he had witnessed since he became a police officer. See Findings, ¶ 23.

After the Gateway Estates fire, the claimant scheduled an appointment on January 28, 2013, because the decedent was panicking and had confided in her that he had suicidal ideation. See Findings, ¶ 24. The notes from that visit documented

increased anxiety and the feeling of being overwhelmed. The decedent was told to take two days off from work and to increase his Klonopin to one milligram. Some improvement of symptoms was noted at the January 30, 2013 appointment as the decedent was less anxious and was sleeping better. Nevertheless, he agreed to take additional time off from work. His Effexor was increased to 150 milligrams. Jones diagnosed him with a panic disorder and PTSD (provisional). See Claimant's Exhibit J.

The decedent was seen at ECHN several times in February 2013. On February 19, 2013, he stated that he had battled depression and anxiety since early adulthood but it was now taking him longer to bounce back. He was hoping to retire in approximately eighteen months. By February 28, 2013, the decedent's anxiety was much improved. See Claimant's Exhibit J. He reported to Jones that his sleep had improved and they discussed his return to work. Jones testified, at that point, he thought the decedent could potentially be suffering from PTSD as a co-morbidity but that this diagnosis was neither confirmed nor excluded by him. See Findings, ¶ 30.

Although the decedent was initially relieved of his revolver at his own request, it was returned to him at some point in conjunction with his return to work on March 4, 2013 when he was assigned administrative duties. See Findings, ¶ 31. On March 12, 2013, the decedent went to work as usual and, later that day, died of a self-inflicted gunshot wound while at work with the use of his service revolver. See Findings, ¶ 32.

Two suicide notes were found. The first note was found at work and read, "I am so sorry but when the depression hit this time, I knew it was different. I have been struggling for months and I have no energy left for the fight." February 3, 2020 Transcript, pp. 51-52; see also Claimant's Exhibit K. He wanted his death to be a

catalyst for others to get help. The note also stated that he “can’t relax anymore no matter where I am. I can’t take this torture and torment anymore.” Id.

The second suicide note was found at the decedent’s home. It was undated and the claimant-widow did not know when it was written. It read,

I wish I could tell people every time I think of work I get stressed out and anxious, but if I told them I was suicidal I would be out of a job. I can’t tell the doctors or anyone and it is killing me inside. I am driving my wife crazy and the kids know something is wrong. I am so sorry for all of this. Something in my mind has not been right for a few years now. Once again, I am so sorry. I love my wife and kids more than anything in the world. They deserve better.

February 3, 2020 Transcript, p. 56; see also Claimant’s Exhibit L.

A form 30D, notice of claim, was filed on behalf of the claimant on November 29, 2013. It cited a date of loss of March 12, 2013 and listed the nature of injury as a gunshot wound. A form 43, notice of intention to contest, was filed by the respondents on December 12, 2013.³ See Administrative Notice 3 and 5. It is this November 29, 2013 form 30D that is central to the case at hand as it cites the date of the decedent’s death as the date of loss and the nature of the injury as “gunshot wound.” See Administrative Notice 3.

In his assessment of the compensability of the decedent’s suicide, the trial judge heard testimony from multiple experts. The testimony was primarily focused on whether the decedent had PTSD.

³ Another form 30D was filed on December 22, 2015. It listed the date of injury as January 15, 2013 and stated that the March 12, 2013 death was the result of PTSD arising from the apartment fire. A form 43 was filed in response to the second form 30D on December 29, 2015. Additionally, a form 30C was filed on behalf of the decedent on December 18, 2015. It cited a date of injury of January 15, 2013, listed the body part as PTSD, and stated that the nature of the injury was a response to an apartment fire. It also noted that it was a supplement to the form 30D dated November 29, 2013. A form 43 was filed relative to this form 30C on December 29, 2015. See Administrative Notice 1-2, 4, and 6.

Robin Grant-Hall, Ph.D., who holds a doctoral degree in clinical psychology, testified live before the administrative law judge. Grant-Hall was hired in 2019 by the claimant to review the records and determine if the decedent suffered from PTSD. See Findings, ¶ 39. Based on her review of the record, Grant-Hall opined that the decedent's pre-existing depression shifted into anxiety, panic attacks, high hyperarousal, excessive worrying, and fear after working for years as a police officer. She further opined that the decedent developed PTSD over an eight-to-ten-year period. See Findings, ¶ 44. According to Grant-Hall, the build-up of the trauma created such high anxiety that the Gateway Estates fire on January 15, 2013 significantly exacerbated his PTSD and was a direct cause of him taking his own life. See Findings, ¶ 46.

Kenneth Selig, a psychiatrist, was hired by the claimant in 2014 to determine whether the decedent's suicide was causally related to his work as a police officer for the Town of East Hartford. His evaluation consisted of a review of the decedent's medical records, personnel records, various deposition transcripts, as well as interviews with the claimant-widow and other people who knew him. Selig confirmed that the decedent had a family history of depression and a past medical history of depression and anxiety with psychiatric treatment in 1986 and beginning again in 2002. See Findings, ¶ 50. The family history of depression was significant to Selig because depression was inherited so that "his brain may have been damaged genetically already and making it more vulnerable – or less capable of adapting to whatever he experienced in his life." September 30, 2020 Transcript, p. 19; see also Findings, ¶ 52.

During his testimony, Selig discussed the nature of PTSD, its relationship to personal experience with, or exposure to, traumatic events, and that it was more prevalent

in police officers. See Findings, ¶ 53. Although the decedent met some, but not all, of the diagnostic criteria for PTSD, Selig opined that PTSD was an appropriate diagnosis for him. Selig also opined that the decedent was already suffering from PTSD when he arrived on the scene of the Gateway Estates fire on January 15, 2013. He further testified that the smoke inhalation aggravated the decedent's PTSD and that the direct harm of inhaling smoke, coupled with witnessing the events at the fire scene, were significant. See Findings, ¶ 57.

The respondents retained Catherine Lewis, a board-certified psychiatrist with a board certification in general psychiatry with a sub-specialty in forensics and a board certification in forensic psychiatry, to perform a psychiatric autopsy of the decedent. Subsequent to this evaluation, Lewis opined that the decedent's symptoms in the weeks leading up to his death were consistent with a major depressive episode, which was characterized by a depressed mood, disruptive sleep, and anxious distress. See Findings, ¶ 69. Lewis also opined that multiple variables exacerbated the decedent's depression, including chronic back pain and the introduction of the medication metoprolol, which can worsen depression and anxiety, as well as the use of an opiate for pain. See Findings, ¶ 70.

Based on the evidence she reviewed, Lewis opined that the decedent did not meet the criteria for a diagnosis of PTSD. See Findings, ¶ 71. Instead, Lewis opined that the decedent suffered from lifetime episodes of major depression which were adequately managed for years, which were not work-related, and were consistent with the depression and anxiety he experienced throughout his lifetime dating to early adulthood. See Findings, ¶ 73. Lewis also opined that the decedent suffered from a panic disorder, a

diagnosis also suggested by Jones, and which could be confused with PTSD. See Findings, ¶ 74.

After weighing all of the factors Lewis opined that the correct diagnosis was major depressive disorder with recurrent anxiety and distress. She also opined that the major depressive disorder with anxious distress, sleep disturbance, and the management of the decedent's medications were substantial contributing factors in his death. See Findings, ¶ 78.

During her live testimony before the administrative law judge, Lewis acknowledged that the decedent's switch from the night shift to the day shift and back to nights was a "big deal" in someone who suffered from major depression and was a factor in aggravating his mental health condition. See October 19, 2021 Transcript, p. 105. She also acknowledged that the Gateway Estates fire, after which the decedent was taken out of work for more than a month, was a factor in aggravating the decedent's underlying mental health issues. See October 19, 2021 Transcript, pp. 109-110. Lewis also conceded that the claimant's major depressive episode and anxious distress, consistent with her diagnoses, "absolutely" contributed to his suicide. See Claimant's Exhibit FF, p. 41.

In his conclusions, the trial judge found that the decedent suffered from PTSD but that the condition did not arise from, and was not caused by, any physical injury that he sustained as a police officer. Specifically, while he held that the decedent suffered PTSD as a result of witnessing multiple traumatic events during the course of his career as a police officer; that PTSD was an occupational disease; and that the decedent suffered a physical injury on January 15, 2013, he did not find that the decedent suffered a physical

injury on January 15, 2013 that aggravated his underlying mental health condition which then caused him to take his own life. Instead, the trial judge concluded that the opinions of Lewis regarding the diagnosis of major depressive disorder coupled with medication management issues and sleep disturbance being the reasons for him tragically taking his own life were more credible than the other expert witnesses and that the suicide was not caused by the decedent's employment as a police officer. See Conclusions, ¶¶ B-F.

“[W]e have held that it is within the discretion of the trial commissioner to accept some, but not all, of a physician's opinion.” Lopez v. Lowe's Home Improvement Center, 4922 CRB-6-05-3 (March 29, 2006), *citing* Nasinka v. Ansonia Copper & Brass, 13 Conn. Workers' Comp. Rev. Op. 332, 335-36, 1592 CRB-5-92-12 (April 27, 1995). The trial judge, therefore, clearly had the right to choose to credit one physician over another and/or to accept portions of those opinions as worthy of greater credibility. Nevertheless, while it is not appropriate to revisit those factual findings that are based upon the evidence elicited at the formal hearing, we can make a determination as to whether the trial judge misapplied the law to the underlying facts.

We note that our tribunal has traditionally provided great deference to the factual findings of our administrative law judges. “As with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did.” (Internal quotation marks omitted.) Daniels v. Alander, 268 Conn. 320, 330 (2004), *quoting* Burton v. Mottolese, 267 Conn. 1, 54 (2003). The Compensation Review Board cannot retry the facts of the case and may only overturn the findings of the administrative law judge if they are without evidentiary support, contrary to the law, or

based on unreasonable or impermissible factual inferences. See Kish v. Nursing & Home Care, Inc., 248 Conn. 379, 384 (1999) and Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988). Nonetheless, while we must provide deference to the decision of an administrative law judge, we may reverse such a decision if the judge did not properly apply the law or reached a decision unsupported by the evidence on the record. See Christensen v. H & L Plastics Co., Inc., 5171 CRB-3-06-12 (November 19, 2007).

We begin our analysis by noting that, contrary to the focus of the parties' arguments regarding the compensability of the decedent's PTSD and the impact of the January 15, 2013 Gateway Estates fire, as well as the administrative law judge's trial decision addressing those arguments, the claim before us is not whether the PTSD was a compensable injury under the workers' compensation act. Rather, the question was whether the decedent's death on March 12, 2013 constituted a compensable physical injury such that the claimant would be entitled to survivor's benefits. Therefore, a thorough review of General Statutes § 31-275 is necessary to a full understanding of whether the injury sustained by the decedent was a compensable injury under the act.⁴

Section 31-275 (1) states that "[a]rising out of and in the course of his employment' means an accidental injury happening to an employee or an occupational disease of an employee originating while the employee has been engaged in the line of the employee's duty in the business or affairs of the employer upon the employer's premises, or while engaged elsewhere upon the employer's business or affairs by the direction, express or implied, of the employer." Subsection (1) (B) goes on to state that

⁴ We note that the administrative law judge listed the issue for determination as "[w]hether the widow of Paul Buchanan is entitled to survivor benefits or is the claim barred by C.G.S. 31-275 (16) (B) (ii) (II)." We find, however, that this recitation of the issues is error, which is the crux of our analysis.

“[a] personal injury shall not be deemed to arise out of the employment unless causally traceable to the employment other than through weakened resistance or lowered vitality.” Subsection (1) (D) states that, “[f]or aggravation of a preexisting disease, compensation shall be allowed only for that proportion of the disability or death due to the aggravation of the preexisting disease as may be reasonably attributed to the injury upon which the claim is based.” Finally, section 31-275 (16) (A) states that,

‘personal injury’ or ‘injury’ includes, in addition to accidental injury that may be definitely located as to the time when and the place where the accident occurred, *an injury to an employee that is causally connected with the employee’s employment and is the **direct result of repetitive trauma** or repetitive acts incident to such employment, and **occupational disease**.*

(Emphasis added.)

In the current case, the trial judge found that the decedent developed PTSD as a result of the multiple traumatic experiences he encountered during his career as a police officer. The trial judge also found that the decedent’s PTSD was an occupational disease as set forth in Biasseti v. Stamford, 250 Conn. 65 (1999), wherein our Supreme Court held that:

[I]n interpreting the phrase ‘occupational disease,’ the requirement that the disease be ‘peculiar to the occupation’ and ‘in excess of the ordinary hazards of employment,’ refers to those diseases in which there is a causal connection between the duties of the employment and the disease contracted by the employee. In other words, [the disease] need not be unique to the occupation of the employee or to the work place; it need merely be ‘so distinctively associated with the employee’s occupation that there is a direct causal connection between the duties of the employment and the disease contracted.’ Hansen v. Gordon, 221 Conn. 29, 35 (1992).

Id., 73 quoting Crochiere v. Board of Education, 227 Conn. 333, 352 (1993).

“Thus, it can be said that the plaintiff’s PTSD/CFS was an occupational disease because his job and experiences as a police officer were more likely to cause this stress disorder ‘than would other kinds of employment carried on under the same conditions.’” *Id.*, 73 quoting Madeo v. I. Dibner & Bro., Inc., 121 Conn. 664, 667 (1936). It is in this context that we must consider the nature of the decedent’s injury. In doing so, Chesler v. Derby, 96 Conn. App. 207 (2006), *cert. denied*, 208 Conn. 909 (2006), is instructive. In that case, the decedent was in the course of his job duties on the last day of his employment when he suffered a heart attack and died during a highly contentious meeting. The respondents argued that, since stress brought about by a negative personnel action was not compensable, the heart attack and death that allegedly flowed from it, should not be found to be a compensable injury. Our Appellate Court held, however, that “[t]he statute does not exclude physical injuries brought on by work-related mental or emotional stress.” *Id.*, 212. The court, therefore, found that § 31-275 (16) (B) (ii) “excludes only mental or emotional impairments. A fatal heart attack is most definitely a physical impairment. Nowhere does the statutory exception purport to address physical impairments, whether they are precipitated by direct physical trauma or by some type of nonphysical, work-related mental or emotional stress.” *Id.*, 213.

Conclusion B of the trial decision before us held the opinion of Selig credible that the decedent suffered from PTSD, despite also finding that it did not arise from a physical injury. Conclusion C held that the opinions of Selig and Grant-Hall were credible and persuasive that the decedent’s PTSD was an occupational disease that was caused by witnessing multiple traumatic events during the course of his employment as a police officer for the respondents. Finally, in Conclusion F, the trial judge found the opinion of

Lewis credible and persuasive that the decedent's suicide was caused by a major depressive disorder coupled with medication management issues and sleep disturbance.

The inherent contradictions in the trial decision give us pause with respect to this part of the analysis. While the trial judge found that the decedent suffered from the occupational disease of PTSD, he disregarded that diagnosis when considering the reason for the decedent's suicide. Instead, he focused on Lewis' diagnosis of major depressive disorder – a diagnosis that she opined was a significant contributing factor, along with medication management and sleep disturbance, of the decedent's suicide. See Conclusion, ¶ F. Furthermore, Lewis acknowledged that, while the psychiatric medications were changing, the decedent was also changing shifts, both of which affected his body. See Findings, ¶ 76. As noted above, Lewis also acknowledged that the change in the decedent's work hours and the Gateway Estates fire were factors that aggravated his underlying mental health condition. See October 19, 2021 Transcript, pp. 105 and 109-110.

It has been determined that the substantial factor standard is met if the employment “*materially or essentially contributes to bring about an injury . . .*” (Emphasis added; emphasis in original.) Birnie v. Electric Boat Corporation, 288 Conn. 392, 412 *quoting* Norton v. Barton's Bias Narrow Fabric Co., 106 Conn. 360, 365 (1927). The term “substantial,” however, does *not* connote that the employment must be the *major* contributing factor in bringing about the injury. (Emphasis in original.) *Id.*, *citing* McDonough v. Connecticut Bank & Trust Co., 204 Conn. 104, 108 (1987). “In accordance with our case law, therefore, the substantial factor causation standard simply requires that the employment, or the risks incidental thereto, contribute to the

development of the injury in *more than a de minimis way*.” (Emphasis in original.)
Id., 412-13.

Given the trial judge’s findings and these opinions rendered by Lewis, we find that it is unreasonable and clearly erroneous to find that the decedent’s work-related mental health issues were not a substantial contributing factor in his suicide.

The general rule to be applied in workers’ compensation cases is that to be compensable an injury must (1) arise out of the employment and (2) occur in the course of the employment. . . . Arising out of employment refers to the origin and cause of the accident. . . . To occur in the course of the employment, the injury must take place (1) within the period of employment, (2) at a place where the employee may reasonably be, and (3) while the employee is reasonably fulfilling the duties of the employment or doing something incidental to it. These three parts correspond to the time, place and circumstance of the accident. (Citation omitted; internal quotations omitted.)

Daubert v. Naugatuck, 71 Conn. App. 600, 608 (2002) quoting Masko v. Board of Education, 48 Conn. App. 515, 517-18 (1998); see also General Statutes § 31-275.

It is undisputed that the decedent’s injury occurred in the course of his employment since he was at work, during his assigned shift, at the time that he committed suicide using his service revolver. Furthermore, based on the analysis set forth in Chesler, supra, it is reasonable to find that this decedent’s death, regardless of the fact that it was the result of a mental impairment, constituted a physical injury that occurred in the course of his employment.

Having satisfied the requirements of § 31-275 (1), we must also address whether this physical injury constituted a deviation from the decedent’s work sufficient to distinguish it from Chesler, supra, based on the fact that he took his own life. The case law is clear that the mere fact that a suicide was committed is not determinative as to whether it is a compensable injury.

In order to prevail on a suicide claim, the surviving spouse must “prove that the decedent’s work-related injuries were a substantial cause of his suicide.” Capezzali v. Bridgeport, 4858 CRB-4-04-9 (September 7, 2005). As early as 1927, the Connecticut Supreme Court held that a suicide might, under the right circumstances, be compensable. See Wilder v. Russell Library Co., 107 Conn. 56 (1927).

The decedent was subject by heredity to a predisposition to mental trouble. The long hours she worked caused excessive fatigue. A physical breakdown occurred, which was followed by a nervous breakdown. This developed into a mental condition amounting to insanity, resulting in suicide, an act for which she was not morally responsible, and which was due to uncontrollable impulse. The worry, anxiety and excessive nervous and mental activity in connection with the library work were all contributing factors in the ultimate mental breakdown. Her physical, mental and nervous disorders were all attributable to that work and traceable to her employment.

Id., 60-61.

Similarly, in Dixon v. United Illuminating Co., 57 Conn. App. 51 (2000), our Appellate Court found that, despite a lifetime of alcohol abuse, the decedent’s suicide was compensable because, while the alcohol abuse was a significant factor, the compensable injury and chronic pain were also substantial factors. See *id.*, 60. More recently, the widow in Orzech v. Giacco Oil Co., 208 Conn. App. 275 (2021), was awarded benefits because the decedent’s suicide was a result of depression that he developed stemming from his compensable injuries to his back, right shoulder and knees based on the “direct and natural consequence rule.” *Id.*, 283 *quoting* Sapko v. State, 305 Conn. 360, 383-85 (2012).

These cases can easily be analogized to the current claim. The decedent in this case was found to have a work-related PTSD condition. It was also found that PTSD was

an occupational disease peculiar to the occupation of police officers. Furthermore, even Lewis, whose opinions, as set forth above, were credited by the trial judge, acknowledged that the claimant's working conditions and the events of January 15, 2013 were factors that contributed to the aggravation of his underlying mental health condition and that the decedent's major depressive episode and anxious distress "absolutely" contributed to his suicide. The focus of the parties and, in turn, the trial commissioner, regarding PTSD versus major depression being the compensable injury was, therefore, a "red herring."

The nature of the mental impairment diagnosis was irrelevant since this was not a "mental-mental" case but rather a "mental-physical" case as in Chesler, supra. The claim is for a physical injury as articulated in the November 29, 2013 form 30D. The physical injury was a gunshot wound that resulted in his death. Consequently, no analysis of General Statutes § 31-275 (16) (B) was necessary. Once it was established, as described above, that the decedent sustained a physical injury that stemmed from a self-inflicted gunshot wound at work that arose out of and in the course of his employment, and that his employment was a significant contributing factor to his physical injury, it was unreasonable to conclude that this was not a compensable claim. The conclusions of the trial judge are, therefore, clearly erroneous and a misapplication of the law to the underlying facts.

There is error and the October 5, 2022 Finding and Dismissal of Daniel E. Dilzer, Administrative Law Judge acting for the First District, is accordingly reversed.

Administrative Law Judges Toni M. Fatone and Soline M. Oslena concur with this Opinion.