

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H208417**

**WILLIAM CYRUS, EMPLOYEE**

**CLAIMANT**

**CITY OF LITTLE ROCK  
EMPLOYER**

**RESPONDENT**

**CITY OF LITTLE ROCK/RISK  
MANAGEMENT RESOURCES,  
INSURANCE CARRIER/TPA**

**RESPONDNET**

**OPINION FILED OCTOBER 21, 2025**

Hearing before Administrative Law Judge, James D. Kennedy, on the 26<sup>th</sup> day of August, 2025, in Little Rock, Arkansas.

Claimant is represented by Andy Caldwell, Attorney at Law, Little Rock, Arkansas.

Respondents are represented by Melissa Wood, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted on the 26<sup>th</sup> day of August, 2025, to determine the issue of permanent partial disability (PPD) or in the alternative, if the Commission finds that it does not have sufficient information upon which to assign and assess the Claimant's permanent impairment, order an IME in accordance with A.C.A. 11-9-511, and additionally that the Claimant is also entitled to reasonable and necessary medical treatment, along with attorney fees, with all other issues reserved. A copy of the Pre-hearing Order filed June 17, 2025, was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided that the parties stipulated the Arkansas Workers' Compensation has jurisdiction of the claim and an employer/employee relationship existed on November 25, 2022, that the claim was accepted as compensable, and that certain benefits were paid. At the time of the hearing, the parties agreed that the

Respondent's figures were correct in regard to wages and that the Claimant's average weekly wage was \$474.63, which entitled him to temporary total disability and permanent partial disability in the amount of \$316.00/\$237.00 respectively.

The Claimant's and Respondent's contentions are set out in their respective amended responses to the Pre-hearing questionnaire and made part of the record without objection. The Claimant contends in his Amended Response to the Pre-Hearing questionnaire that he sustained compensable injuries as a result of a gunshot wound on or about November 25, 2022, while in the course and scope of his employment. The Respondents accepted the claim and provided medical and indemnity benefits. The Claimant has a permanent anatomical loss as a result of these wounds. The Claimant contends he is entitled to permanent partial disability benefits for his injuries. The Claimant sought an evaluation with the Functional Testing Centers for his permanent impairment and was assigned a 2% impairment rating which has been controverted by Respondents. The Claimant is either entitled to the 2% rating or the Commission should assess impairment in accordance with Arkansas Law. If the Commission finds that it is without sufficient information upon which to assess the Claimant's impairment, it should order an Independent Medical Examination in accordance with A.C.A. 11-9-511. Claimant also contends that the cost of the impairment evaluation with Functional Testing Centers is reasonable and necessary medical treatment for which Respondents are responsible. Claimant's attorney is entitled to attorney's fees on all controverted indemnity. All other issues are reserved

The Respondent's contend in its Second Response to the Prehearing Questionnaire that all appropriate benefits were paid with regard to Claimant's

compensable injuries sustained on November 25, 2022. Claimant's treating physician, Dr. Bumpass, indicated that he reached MMI on 1/23/23 with a 0% impairment rating. Claimant's rating evaluation performed by Functional Testing Centers is not medical treatment, and Respondents should not be responsible for the same. Likewise, an IME is not reasonable and necessary, as permanency has already been addressed by Claimant's treating physician.

The sole witness to testify was the claimant, William Cyrus. The claimant submitted two exhibits without objection, with Exhibit One consisting of medical records with an Index of fifty-four pages. Claimant's Exhibit Two consisted of Non-Medical Records with an Index that consisted of seven pages. The Respondents submitted one exhibit without objection, consisting of documentary evidence with an Index consisting of fourteen pages. From a review of the record as a whole, to include medical reports and other matters properly before the Commission and having had an opportunity to observe the testimony and demeanor of the witness, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. 11-9-704.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on November 25, 2022, when the Claimant sustained injuries that were accepted as compensable, as a result of a gunshot wound.
3. That at the time of the injury, the claimant was earning an average weekly wage of \$474.63, sufficient for TTD/PPD rates of \$316.00/\$237.00 respectively.
4. That Respondents accepted the claim and paid appropriate benefits.

5. That the Claimant is found to have reached maximum medical improvement (MMI) on January 23, 2023, with a 0% impairment rating as assigned by his treating physician and that there is insufficient evidence to satisfy the required burden of proof to show that the claimant is entitled to a permanent partial disability rating.
6. That the Claimant has failed to satisfy the required burden of proof to prove by a preponderance of the evidence that the additionally requested independent medical evaluation satisfies the requirements as set out by the Arkansas Workers' Compensation Act and that the evaluation is found to not be a reasonable and necessary medical treatment.
7. That all remaining issues are moot.
8. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

### **REVIEW OF TESTIMONY AND EVIDENCE**

The claimant, William Cyrus, testified that on November 25, 2022, he was working for the HMP City Home Neighborhood Project with the city. At the time of the accident, "We had pulled up to an address that we needed to clean, and I jumped out of the truck before the guy driving did. And as I jumped out the truck, a black Charger drove up behind us and kind of pulled a little bit further to the side of us, and a guy came out and talked out the window and sat on the top of the hood and started firing a gun with a silencer on it, and that's why I was shot because I never heard a sound." The claimant went on to state that he was cleaning off the lot with a zero-turn mower when the man opened fired on the city truck and he was ultimately struck, hitting him under his shoulder blades and coming out the left side of his back. He was transported by ambulance to UAMS. He went to Concentra, some spinal specialists, and to UAMS. He went on to state that Dr. Bumpass released him in January of 2023. He then requested a change of physician and started seeing Dr. Broussaud but stated he then lost his insurance. Additional treatment

was not authorized by the Respondents, but the Claimant was not requesting additional treatment at the time of the hearing. (Tr. 7 – 9) Claimant went on to state that he had received treatment from Pain Treatment Centers and that he had a burning sensation in the middle, boney, part of his back. (Tr. 10) Describing his back symptoms, he stated “Well, just the stiffness of my back on certain days. When I lay, I have to turn myself constant periodically. Just not a comfortable sleep at night.” He is still working for the city through Arkansas Public Works. He stated he had not been back to the doctor because the city did not provide insurance, but that he now had insurance. He went on to state that he now works as a pothole filler. (Tr. 11)

He additionally testified about going to the Functional Testing Center where he was assessed an impairment rating, and to his knowledge, they haven’t been paid. He was asking for permanent partial disability. (Tr. 12)

Under cross examination, the claimant admitted that he started working for the city in April of 2019, and for a number of years had also worked for Black Bear Diner, where he worked as a dishwasher. He thought that had ended in the first part of 2025. He had worked that job from the time of his injury until early 2025. He stated he had left that job because he was only getting about 15 hours a week and “it really wasn’t worth my time, the traffic, getting through the traffic that I had to get there.” (Tr. 13, 14) He admitted as a result of the gunshot, he had sustained a cracked rib, which had healed up on his own. Additionally, his lung had been nicked and had healed up on his own. He admitted to being taken off work for about two months and during that time he had received workers’ compensation benefits. He also admitted that was about how long his treatment had lasted, with the exception of the later treatment at Pain Treatment Centers. He received

a full duty release and then went back to his regular job. He switched to the new job, so he could get 40 hours a week with insurance. (Tr. 15, 16) He also admitted he had stated in his deposition that he did not need help in his previous job nor with his current job filling potholes and had no restrictions from any doctor. (Tr. 18)

The following questioning then occurred:

Q. And you said at some point, Doctor Broussand had no treatment to offer you, is that right?

A. Due to my insurance, no insurance.

Q. You told me that he indicated there was nothing else he could do.

A. Okay.

Q. Is that right?

A. Right.

Q. And I asked you was any other treatment recommended that you haven't had. You told me nothing else has been recommended, is that true?

A. Right.

Q. You had discussed with me in the deposition that you sometimes have some breathing difficulty maybe associated with the lung.

A. Yes.

Q. Okay. I asked you in the deposition, other than the breathing difficulties that you told us about, do you have any other lasting problems because of the gunshot. Your response was, "I just have nightmares." Is that correct?

A. Yeah, yeah.

Q. All right. We next discussed later in the deposition your evaluation at Functional Testing Centers. You said that at the evaluation, you were asked to bend and turn to the side, is that right?

A. No.

Q. You said that you guessed that it was to see how your back was doing with the wound, is that right?

A. Yes.

Q. You didn't lift anything, did you?

A. No.

Q. And you told me it took about 30 minutes, is that right?

A. Yes.

Q. And all you did was bend and turn, is that correct?

A. Bend, turn, and twist.

Q. We have some medical records dated January 5, 2023, from UAMS.

A. Uh-huh.

Q. That document shows that you reported doing well overall, and you felt like you were able to perform your daily functions without difficulty. Does that sound correct?

A. Yes.

Q. You were released at that point to full duty by the trauma physician, does that sound right?

A. Yes. (Tr. 18, 19)

On redirect, the claimant stated that he did not recall any spirometry testing and had never received any treatment for PTSD. (Tr. 20) On recross, the claimant admitted that he had never actually been diagnosed with PTSD. (Tr. 21)

Claimant's Exhibit One provides that the Claimant was taken to UAMS on November 25, 2022, and received an orthopedic consult which provided for no acute orthopedic spine intervention with no spinal precautions. The report provided that the claimant arrived with two ballistic wounds to his back, with one on the right side and one on the left side. Injuries included a thoracic spine fracture, with a right sided rib fracture. The CT of the chest, abdomen, and pelvis, provided for a comminuted fracture of the right 8<sup>th</sup> rib as well as the transverse process and the spinous process of T8 vertebra. Bilateral pulmonary contusions were observed that were greater on the right side with a right sided hemothorax. An active hemorrhage was seen along the posterolateral 9<sup>th</sup> rib superficially, likely coming from the 9<sup>th</sup> intercostal artery. No acute findings were found within the

abdomen and pelvis. The reports provided that the Claimant was asked about PTSD type symptoms and the Claimant stated that “he felt ok,” but would call if he wanted to talk to trauma psychology. The report went further and provided under impression for gunshot wounds to both the right and the left side of the back, with contusions of both lungs, closed fracture of multiple ribs of the right side, and of the eighth thoracic vertebra. The Claimant was discharged on November 26, 2022. He was instructed to return to the surgery clinic in two weeks. (Cl. Ex. 1, P. 1 – 24)

The Claimant presented to Concentra December 1, 2022, in regard to his gunshot wounds. A physical therapy referral was made. (Cl. Ex. 1, P. 25 – 30) The Claimant then presented to the UAMS Surgery Clinic on December 8, 2022. The report provided that the Claimant was doing well but had persistent pain over his back. Dr. Mathew Roberts opined that the Claimant should be monitored monthly and that as of December 8, 2022, the Claimant was only cleared for light desk duty. (Cl. Ex. 1, P. 31 – 34) The Claimant then presented to UAMS Orthopedic Spine Clinic on December 13, 2022. The report provided that the Claimant felt he was not walking as fast as he used to and that he should follow up with the Surgery Clinic in about four weeks. Additionally, he could return to light duty, not lifting over 20 pounds. (Cl. Ex. 1, P. 35 – 44) The Claimant then returned to the UAMS Surgery Clinic on January 5, 2023. The report provided that the claimant had a full range of motion in all of his extremities and that he could move them spontaneously. (Cl. Ex. 1, P. 45 – 46)

The Claimant presented to the UAMS Neurosurgery Clinic on January 23, 2023. The report provided that the Claimant had healed T8 fractures secondary to non-operative treatment. Dr. David B. Bumpass provided that the Claimant could return to work on

January 24, 2023, with no work restrictions and further provided there was no need for an impairment rating. (Cl. Ex. 1, P. 47 – 51) A report from Functional Testing Centers, Inc., dated March 7, 2025, provided the Claimant had a 2% impairment rating to the whole person, due to his work-related injury. (Cl. Ex. 1, P. 52, 53)

Claimants Exhibit Two consisted of a Pay Log Report and a bill from Functional Testing Centers addressed to the Claimant for the sum of \$350.00. (Cl. Ex. 2, P. 1 – 6)

The Respondents Exhibit One consisted of fourteen (14) pages of documentary evidence plus an index. An X-ray of the thoracic spine dated December 13, 2022, provided that the x-ray was unremarkable and that the known right T8 transverse and spinous process fractures were difficult to visualize. (Resp. Ex. 1, P, 1, 2) A release from UAMS dated January 5, 2023, provided that the claimant presented for a follow up for an evaluation for a return to work with full activity. Claimant was accompanied by his case manager. The report provided there was no need for a follow-up and was signed by Britney M Beumeler, APRN CNP. (Resp. Ex. 1, P. 3, 4) An x-ray of the thoracic spine on January 23, 2023, which was ordered by Dr. David Bumpass, provided there was no significant interval change since the prior radiograph showed that the lungs were clear, and the cardio mediastinal silhouette was within normal limits. (Resp. Ex. 1, P. 5, 6) On January 23, 2023, Dr. Bumpass issued a MMI report and a full duty release. The report provided that the claimant could return to work on January 24, 2023, with no restrictions. (Resp. Ex. 1, P. 7- 13)

## **DISCUSSION AND ADJUDICATION OF ISSUES**

The claimant has the burden of proving by a preponderance of the evidence that he is entitled to compensation benefits under the Arkansas Workers' Compensation Law. In determining whether the Claimant has sustained his burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. A.C.A. 11-9-704. Wade v. Mr. Cavananugh's, 298 Ark. 364, 768 S.W. 2d 521 (1989). Further, the Commission has the duty to translate evidence on all issues before it into findings of fact. Weldon v. Pierce Brothers Construction Co., 54 Ark. App. 344, 925 S.W.2d 179 (1996). This includes the Commission's province to reconcile conflicting medical evidence. Arkansas Health Ctr. v. Burnett, 2018 Ark. App. 427, 558 S.W. 3d 408.

The Claimant contends that he is entitled to permanent partial disability due to his work-related injury. Permanent impairment is any permanent functional or anatomical loss remaining after the healing period has been reached. Johnson v. General Dynamics, 46 Ark. App. 188, 878 S.W.2d 411 (1994). Any determination of the existence or extent of physical impairment shall be supported by objective and measurable physical findings. A.C.A. 11-9-704. Objective findings are those findings which cannot come under the voluntary control of the patient. A.C.A. 11-9-102(16)(A)(i). Although it is true that the legislature has required medical evidence to establish a compensable injury, it does not follow that such evidence is required to establish each and every element of compensability. Stephens Truck Lines v. Millican, 58 Ark. App. 275, 950 S.W.2d 472 (1997). Medical opinions addressing impairment must be stated with a reasonable degree of medical certainty. A.C.A. 11-9102(16)(B). Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of

the disability or impairment. A.C.A. 11-9-102(f)(ii)a. “Major cause” means more than fifty percent (50%) of the cause. A.C.A. 11-9 -102 (14).

In the present matter, the treating physician at UAMS, Dr. David Bumpass, opined on January 23, 2023, that the Claimant had reached MMI and fully released him, providing that the Claimant could return to work with no restrictions. A little over two years later, the Claimant elected to present to Functional Testing Centers on March 7, 2025, and they issued a report that the Claimant was in fact 2% disabled. The Commission has the duty to weigh evidence, and the resolution of conflicting evidence is a question of fact for the Commission. It is well settled that the Commission has the authority to accept or reject medical opinions and the authority to determine its medical soundness and probative force. Williams v. Ark. Dept. of Community Correction, 2016 Ark. App. 427, 502 S.W.3d 530 (2016). Here the treating physician opined that the claimant suffered no restrictions and could return to work. Additionally, the Claimant testified that he now works at a job filling potholes, a job that is clearly labor intensive, and that he performs his duties without any assistance. Once he had returned to work after the unfortunate shooting incident, he also admitted that he had worked two jobs for a period of time. The report from Functional Testing Centers was over two years after the work-related shooting, and clearly multiple intervening factors could have come into play during that period. Based upon the available evidence, there is no alternative but to find that there is insufficient evidence to satisfy the requirement that the Claimant is entitled to permanent partial disability.

The claimant requests in the alternative that if the Commission finds that it is without sufficient information or evidence to find that the Claimant is entitled to permanent partial disability, it should order an Independent Medical Examination in accordance with

A.C.A. 11-9-511. The plain language of A.C.A. 11-9-511 (a) and A.C.A. 11-9-811 does not authorize the Arkansas Workers' Compensation Commission to sua sponte, order an independent medical examination after the parties litigated compensability and additional benefits. See Burkett v. Exxon Tiger Mart, Inc., 2009 Ark. App. 93, 304 S.W.3d 2 (2009) and Sea Ark Marine, Inc. v. Pippinger, 2010 Ark. App. 13, (2010). Clearly, the parties are in the process of litigating benefits, but it is also clear that the law places some limitations on the Commission to order an independent medical examination. Here, the Claimant has asked for an independent medical examination in the alternative, but it is over two years from the date when the treating physician found the Claimant could return to work with no restrictions and the Claimant admitted he was able to perform a physically intensive job with no assistance. The fact that the Respondent is only responsible for medical services which are causally related to the compensable injury, and the undeniable fact that the additional requested independent medical examinations is at least two years after the Claimant was released by his treating physician at MMI to return to work with no limitations, there is no alternative but to find that the independent medical examination requested in the alternative by the claimant is not reasonable and necessary.

Additionally, since the Claimant's actual visit to Functional Testing Centers was over two years after the claimant was found to be at MMI and Claimant was released without restrictions to return to work by his treating physician, there is no alternative but to find that there is insufficient evidence to require the Respondents to pay for the earlier independent medical examination and the earlier independent medical examination is also found to not be reasonable and necessary. The Claimant bears the burden of proof in establishing entitlement to benefits under the Arkansas Workers' Compensation Act

and must sustain that burden by a preponderance of the evidence. Dalton v. Allen Engineering Co., 66 Ark. App 260, 635 S.W.2d 543.

After reviewing the above evidence and the applicable law, and after weighing the evidence impartially, without giving the doubt to either party, there is no alternative but to find that the claimant has failed to satisfy the required burden of proof to prove by a preponderance of the credible evidence that the that the Claimant is entitled to permanent partial disability. Additionally, there is insufficient evidence to satisfy the evidentiary requirements for the Commission to order an independent medical examination as requested by the claimant. All other issues are moot. If not already paid, the Respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

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JAMES D. KENNEDY  
Administrative Law Judge