BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H304579

GLENDA KENNEDY, EMPLOYEE	CLAIMANT
UNIVERSITY OF ARKANSAS AT PINE BLUFF, EMPLOYER	RESPONDENT
PUBLIC EMPLOYEE CLAIMS DIVISION, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED MARCH 31, 2026

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE RISIE HOWARD, Attorney at Law, Pine Bluff, Arkansas.

Respondents represented by the HONORABLE CHARLES H. McLEMORE, JR., Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed December 3, 2025. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission affirms the administrative law judge's opinion. The Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a compensable injury.

I. HISTORY

The record indicates that Glenda Kennedy, now age 73, treated with Dr. Eric Gordon on or about January 5, 2022:

> Patient is a 69-year-old female who is right hand dominant and works as an educator for UAPB. Patient presents today for evaluation of right shoulder pain which has been present since last summer. She is not certain but she did have a fall where she stumbled forward and landed on outstretched upper arms about 2 months prior to the onset of pain. There was not a direct connection but that is the only thing she could think of as a cause of her symptoms. Around June 2021 however she started to have pain in her right shoulder that has been a bit worse lately….
> Right shoulder exam: inspection reveals skin intact, no swelling or bruising….
> IMAGING: X-rays ordered, taken, and interpreted today include AP, outlet, and axillary views of the right shoulder show type lib acromial arch, mild superior migration humeral head noted.

Dr. Gordon assessed "Right shoulder pain likely secondary to rotator cuff tear….Discussed that I suspect she has a rotator cuff tear but fortunately is having only some mild to moderate symptoms currently. We will try round of physical therapy for strengthening and see how she responds to that. Follow-up in 1 month."

The claimant treated with Dr. Michael D. Cassat on February 8, 2023:

> She is a pleasant 70-year-old female who comes today with chronic right shoulder pain with loss of motion x2 years after a fall. This has not improved despite physical therapy. She also complains of right low back and lateral hip discomfort with an antalgic gait….
> X-ray of the right hip shows some cystic change in the femoral head, preserved joint space.

> X-ray lumbar spine with a spondylolisthesis at L4/5, multilevel degenerative changes otherwise. X-ray of the right shoulder shows a high riding humeral head consistent with rotator cuff arthropathy.
> We will get an MRI of her right shoulder to further evaluate her chondral surface and supraspinatus tear, start physical therapy for her low back.

The parties stipulated, "On 14 February 2023, the claimant alleges she fell while at work. She alleges that she sustained compensable injuries by specific incident to her right shoulder, right knee, right wrist, and back."

The claimant testified on direct examination:

> Q. Dr. Kennedy, do you agree with the statement that Judge Howe read which basically sums up what happened; that you tripped and fell over an electric socket in your classroom at the University of Arkansas at Pine Bluff?
> A. Yes.

The respondents' attorney cross-examined the claimant:

> Q. Did anybody happen to witness you falling in your classroom? Was anybody else in there besides you?
> A. No.

According to the record, an MRI of the claimant's right shoulder was taken at UAMS on February 15, 2023:

> Per chart review: 70-year-old female presenting with chronic right shoulder pain with loss of motion for 2 years after a fall. This has not improved despite physical therapy….
> Impression
> 1. Attenuated supraspinatus tendon with high grade oblique tear of the bursal surface fibers anteriorly and interstitial tear extending to the myotendinous junction. Mild atrophy of the supraspinatus and infraspinatus muscles.
> 2. Moderate acromioclavicular osteoarthritis with lateral downsloping acromion with chronic subacromial

impingement causing rotator cuff tear as described resulting in high riding humeral head.
3. Completely torn and retracted biceps tendon with nonvisualization of the tendon in the bicipital groove.
4. Subscapularis tendinopathy.
5. Circumferential degenerative changes of the glenoid labrum.

A physical therapist at UAMS reported on February 15, 2023:

> **Chief complaint and mechanism of injury:** Patient presents with complaints of low back pain. She states that her pain began a couple years ago, but has gradually worsened. The right side of her back hurts, but the left side is fine. Occasionally she will feel sharp pain in the R side of her low back, and she also has radiating pain down to her knee. Pt reports that sometimes just her knee will hurt, and not her back. A while ago, she thought her pain was getting better and only had stiffness, but then it began to hurt worse again.

Dr. Cassat reported on April 3, 2023:

> She returns today for a discussion regarding her work related injury. When she was seen initially we were evaluating her for a shoulder injury, back pain, hip pain, neck pain. She apparently sustained an injury the day before her MRI to these same areas, and subsequently reports that her injury worsened her symptoms….
> She is here today to discuss her MRI findings. By my interpretation she has a partial tear of her rotator cuff, there is some associated atrophy. There is not substantial bony edema or effusion present that I would suspect with a 1-day-old injury. She does have degenerative changes at the AC joint. Her biceps is not visualized in her biceps groove on her axial sequences.
> We discussed that I could not completely exclude that her injury occurred during her recent work related problem however I cannot say greater than 50% likelihood that this is case. She would like to attend physical therapy, I think this is quite reasonable, if she fails then she will need to see my partner to discuss possible surgical intervention. Her only

> restrictions related to her job need to be limitations in overhead activity.

Dr. Lawrence K. O'Malley examined the claimant on June 29, 2023:

> Glenda F. Kennedy is a 70 y.o. year old female patient presents for evaluation of right shoulder dysfunction. Patient states that she fell in 2018, but only developed some shoulder pain in 2019. States that pain was improving until more recent fall in February of this year. Since that fall, patient has significantly decreased range of motion of her right shoulder. She states she had much better range of motion prior to this fall. She was seeing Dr. Cassat who recommended physical therapy for her. States physical therapy has approved (sic) her discomfort and slightly increased range of motion, but she continues to be limited. She works as a professor at UA Pine Bluff. She states that since her fall she feels that she is unable to lift her shoulder as well as prior to her fall. She was seen last year at OrthoArkansas. She was seen by my partner approximately 1 week prior to her injury at work in February. She states that when she fell she was trying to avoid hitting her right shoulder but did. She fell on the display monitor that was on the floor against the wall. She states she has difficulty riding (sic) at the top of the smart board with her right hand….
> MRI of the right shoulder was reviewed demonstrating tears of the supraspinatus and infraspinatus tendons. There also appears to be some upper border tendinopathy versus tearing of the subscapularis. Bicipital tendon is no longer in the groove and is likely retracted….
> Discussed with the patient the natural history of the disease. Discussed typical treatment options and progression of conservative to more aggressive treatment including arthroscopic surgery….
> She did have pre-existing show (sic) chronic shoulder issues. The patient was evaluated in 2022 by OrthoArkansas. She also saw my sports medicine partner 1 week prior to her work injury. Per the previous record the patient did have loss of range of motion of this right shoulder along with documented weakness of the rotator cuff prior to her work injury. I believe that with a a (sic) reasonable degree of medical certainty that greater than 51% of the patient's current medical problems

> are related to her chronic shoulder injury prior to her work injury.
> Based off a certain degree of medical certainty I do believe that the patient has had a reasonable amount of treatment for her injury from 02/04/2023. The patient had pre-existing medical issues including recent stiffness and loss of range of motion of the right shoulder prior to her work injury.
> With a reasonable degree of medical certainty I do not believe that there needs to be any restrictions due to the patient's work injury due to her pre-existing conditions.

Dr. O'Malley's impression was "Chronic Right shoulder pain with rotator cuff tear, workman's comp."

Dr. Wayne L. Bruffett noted on July 19, 2023:

> Glenda F. Kennedy is a 70 y.o. year old female with a history of chronic problems with her back. She also has some cervical spine issues. She fell at work on February 14th. She injured her low back in (sic) her shoulder. She is referred for an IME. She has a history of seeing Dr. Cassat I at a (sic) sports medicine specialist prior to her work injury for chronic right shoulder pain and low back pain and also some lateral hip discomfort with an abnormal gait….
> X-rays of her lumbar spine were ordered obtained and interpreted today. These were compared to x-rays that were done prior to her fall. There is no appreciable change. She has multilevel degenerative changes. Also reviewed an MRI of her cervical spine report for she has stenosis at C5-6 and myelomalicia….
> The cause of her low back pain would be degenerative disc disease and a subtle degenerative spondylolisthesis that was existing in symptomatic prior to her fall at work.
> I would say with a reasonable degree of medical certainty that her low back symptoms and degenerative changes are pre-existing and not related to her fall of February 14th.
> Because she does not have objective evidence of injury from a fall I do not feel that further treatment is indicated for her work condition.

> Therefore, she is at maximum medical improvement. She has not sustained any injury that would result in any permanent impairment with regards to her lumbar spine.
> I have no restrictions to place upon her with regards to her lumbar spine so she will be released with regards to her low back without restrictions….

The claimant treated with Dr. Jeffrey R. Hill on February 28, 2024:

> Glenda F. Kennedy is a 71 y.o. female presenting for evaluation of their right shoulder. She has had some history involving this shoulder. In February of 2023 she had a fall she was at work. She is a professor at UAPB. She states that prior to this fall she had some occasional pain and discomfort involving the shoulder but nothing significant. After the fall she had limited motion of the shoulder. She was seen by Dr. O'Malley an MRI was completed. She was then referred to physical therapy. She has now had 2 rounds of physical therapy and her last round and did an (sic) October. She has perceived some benefit however has not been significant….
> MRI dated February 2023 reviewed. [She] has thinning of the posterior superior rotator cuff insertions with partial-thickness tearing. Tendinopathy of the upper border of the subscapularis. This this (sic) tendon not visualized within the groove. Penny degeneration noted within the subscapularis supraspinatus infraspinatus.

Dr. Hill's diagnosis was "right rotator cuff deficiency….We did discuss that rotator cuff repair at her age and chronicity may be difficult to have a good outcome. She may end up needing a reverse total shoulder arthroplasty."

The claimant's attorney provided undated correspondence to Dr. Hill, Dr. Cassat, and a physical therapist, Stuart Jones:

> My name is Attorney Risie Howard and I am representing your patient Dr. Glenda Kennedy before the Arkansas Workers' Compensation Commission. She is seeking payment by the

> University to her medical providers, as well as, reimbursement for her out-of-pocket expenses for medical treatment related to her fall in her classroom on February 14, 2023, at work. Would you please verify by checking and signing in the area below, whether based upon your diagnosis, you can say within a reasonable degree of medical certainty, that her injuries were causally related to her accident at work.
> Please check the appropriate block:
> ● Yes
> ● No
> ● I am unable to say, Yes or No, within a reasonable degree of medical certainty.

Stuart Jones circled "Yes." Mr. Jones wrote, "Based on subjective and objective measurements taken/obtained during initial physical therapy evaluation dated 3/14/24."

Dr. Hill and Dr. Cassat both checked the circle indicating, "I am unable to say, Yes or No, within a reasonable degree of medical certainty." Dr. Cassat wrote on June 25, 2025, "Pt ĉ previous sx, worse after injury and marked increase in need for care/intervention. Would defer causation to Dr. Hill otherwise."

Betty Hayes-Anthony, an Instructor with the University of Arkansas at Pine Bluff, provided a "Witness Statement for Dr. Glenda Kennedy" on June 30, 2025:

> I saw Dr. Glenda Kennedy at a staff meeting and noticed that she had started to carry her arm like a stroke victim and her walk had changed. When I questioned her, she informed me that she had accidentally fallen in her classroom in Dawson-Hicks Hall.
> Thereafter, when I would see her, I often questioned her about it, she would state that she was still having issues with it

> such as limited range of motion and strength but that she was going to therapy.
> I was concerned about her because I would see her at staff meetings and notice that the right shoulder of the blazer that she was wearing looked higher than the other shoulder.
> Again, I questioned her about treatment, and that she might need another doctor or physical therapist.
> She continued to strive to do her job, despite the fact of the physical issues that she encountered.
> This is my personal observation of Dr. Glenda Kennedy.

Willie Mae Hobbs, an Educator Preparation Program Academic

Advisor for the respondents, also corresponded on June 30, 2025:

> Dr. Glenda Kennedy and I have worked together for the past twenty-three years, and we have asked for each other's assistance many times. However, for the past two years, I have noticed that she barely uses her Right Shoulder, Arm, and Hand, and she holds that side of her body just like my daughter, who has cerebral palsy on one side of her body. This observation was made after she fell during class during the spring 2023 semester.
> Dr. Gee, as I call her, and I have worked together for so long that I feel comfortable in her presence, and we talk freely with each other to the point where we can offer objective criticism when the opportunity presents itself. I would observe the way she carried her body until one day I mentioned to her that she wasn't using the right side of her body, and she needed to watch that because it makes her look handicapped at times. After that, I observed her. She and I used to take the stairs together; however, the year before last, I noticed she would only take the elevator. I mentioned that to her as well, and she said she was in therapy and hopefully that would work, but as of the spring 2025 semester, she still carried that arm, shoulder, and right hand as if it were disconnected from the rest of her body.
> Every time I noticed her not using that arm, shoulder, and hand, I say, "Dr. Gee, you are doing it again!" And she knows exactly what I'm speaking about. Dr. Kennedy can't lift anything with that side of her body to the point where a student helped her move to her new office; however, she has

> been working out of boxes because she never feels up to unpacking one-handed. She knows where everything is, but if we went in to try to help, we would mess up her rhythm. Dr. Gee is a dedicated Professor, and she very much wants to be there for every class meeting; therefore, she centers therapy around her class schedules.

David Fernandez, Interim Dean of Graduate Studies and Continuing Education, stated on July 11, 2025:

> While I did not witness Dr. Glenda Kennedy's fall and resulting injury while at work in February 2023, I did see her noticeably limping within the next day or two and commented about it to her at that time. It was at that time that she informed me she had fallen at work recently. I also heard from some of the other employees in the building that they had either seen or heard about her fall at work, and that they had been very concerned about her condition at that time and afterwards.

A pre-hearing order was filed on July 14, 2025. According to the pre-hearing order, the claimant contended, "Dr. Kennedy was carrying a box to the back of her classroom when she tripped over an electric socket. She fell against equipment that she and her chairperson had asked the University to remove from the classroom. She landed on the floor. Although the claimant may have had preexisting injuries, the 'egg-shell plaintiff' rule would apply. 'You take your victim as you find her.' Therefore, the employer is liable to the claimant."

The parties stipulated that the respondents "have controverted this claim in its entirety." The respondents contended, "The claimant alleges that she sustained injuries as the result of falling on February 14, 2023.

She contended that she sustained injuries to various body parts. The report of injury was investigated by the respondents, and it was determined that the claim did not meet the statutory requirements of a compensable injury. After reviewing available information, the respondents have controverted this claim in its entirety. The Claimant's claim is not supported by objective medical findings of an acute work-related injury. The Respondent reserves the right to raise additional contentions, or to modify those stated herein, pending the completion of discovery."

The parties agreed to litigate the following issues:

1. Whether the claimant sustained compensable injuries by specific incident on 14 February 2023.
2. Whether the claimant is entitled to reasonable and necessary medical benefits, including reimbursement for past treatment, mileage, and future treatment. All other issues are reserved.

After a hearing, an administrative law judge filed an opinion on December 3, 2025. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. The administrative law judge therefore denied and dismissed the claim. The claimant appeals to the Full Commission.

II. ADJUDICATION

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4)(Repl. 2012), provides, in pertinent part:

(A) "Compensable injury" means:

> (i) An accidental injury causing internal or external physical harm to the body … arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must also be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). "Objective findings" are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Repl. 2012).

An aggravation is a new injury resulting from an independent incident. *Farmland Ins. Co. v. Dubois*, 54 Ark. App. 141, 923 S.W.2d 883 (1996). An aggravation, being a new injury with an independent cause, must meet the requirements for a compensable injury. *Ford v. Chemipulp Process, Inc.*, 63 Ark. App. 260, 977 S.W.2d 5 (1998).

The employee has the burden of proving by a preponderance of the evidence that she sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i)(Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

An administrative law judge found in the present matter, "3. The claimant has failed to prove by a preponderance of the evidence that she

suffered any compensable injuries by specific incident on or about 14 February 2023." The Full Commission affirms this finding.

It is within the Commission's discretion to determine the credibility of each witness and the weight to be given to their testimony. *Johnson v. Hux*, 28 Ark. App. 187, 772 S.W.2d 362 (1989). The Commission is not required to believe or disbelieve the testimony of any witness. *Green v. Jacuzzi Brothers*, 269 Ark. 733, 600 S.W.2d 448 (Ark. App. 1980). The Commission may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Univ. of Ark. Med. Sciences v. Hart*, 60 Ark. App. 13, 958 S.W.2d 546 (1997).

In the present matter, with regard to whether the claimant proved she sustained a compensable injury, the Full Commission finds that the claimant was not a credible witness. According to the evidence of record before the Commission, the claimant treated with Dr. Gordon in January 2022. Dr. Gordon reported that the claimant had been suffering from right shoulder pain since a fall in 2021. The claimant does not contend that the sustained a compensable injury in 2021. Dr. Gordon's assessment in January 2022 was "Right shoulder pain likely secondary to rotator cuff tear." The claimant treated with Dr. Cassat on February 8, 2023. Dr. Cassat noted that the claimant had been suffering from chronic right shoulder pain

related to a fall two years earlier. Dr. Cassat reported that diagnostic testing was consistent with "rotator cuff arthropathy."

According to the parties' stipulations, the claimant contends that she sustained compensable injuries to her right shoulder, right knee, right wrist, and back as the result of an accidental injury allegedly occurring on February 14, 2023. The Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a compensable injury to her right shoulder, right knee, right wrist, or back on February 14, 2023. The claimant testified that she "tripped and fell over an electric socket." There is no probative evidence of record which corroborates the claimant's testimony. The claimant admitted on cross-examination that no other individual witnessed the alleged fall. The claimant sought treatment at UAMS on February 15, 2023 but did not report a fall allegedly occurring the previous day, February 14, 2023. It was noted at UAMS on February 15, 2023, "70-year-old female presenting with chronic right shoulder pain with loss of motion *for two years after a fall* [emphasis supplied]." A physical therapist reported on February 15, 2023 that the claimant was complaining of low back pain which had "gradually worsened." There was no report of an injury allegedly occurring February 14, 2023. The medical providers did not begin reported an alleged February 14, 2023 incident until Dr. Cassat's notes on April 3, 2023.

Dr. O'Malley's impression in June 2023 was "Chronic Right shoulder pain with rotator cuff tear, workman's comp." Dr. O'Malley did not attribute the claimant's condition to an injury allegedly occurring February 14, 2023. Dr. Bruffett noted in July 2023 that the claimant "does not have objective evidence of injury from a fall[.]" The Full Commission attributes minimal evidentiary weight to Dr. Hill's statement in February 2024, "In February of 2023 she had a fall she was at work." We also attach minimal evidentiary weight to Stuart Jones' conclusions that there were "objective measurements during initial physical therapy evaluation" which established a compensable injury allegedly occurring on February 14, 2023.

The Full Commission finds that the claimant did not prove by a preponderance of the evidence that she sustained a compensable injury. The claimant did not prove that she sustained an accidental injury causing internal or external physical harm to the body. The claimant did not prove that she sustained internal or external physical harm to her right shoulder, right knee, right wrist, or back. The claimant did not prove that she sustained an injury which arose out of and in the course of employment or required medical services. The claimant did not prove there was a compensable injury which was caused by a specific incident or was identifiable by time and place of occurrence on February 14, 2023 or any other date. *See Edens v. Superior Marble & Glass*, 346 Ark. 487, 58

S.W.3d 369 (Ark. 2001). The claimant did not establish a compensable injury by medical evidence supported by objective findings. Finally, the claimant did not prove that she sustained a compensable aggravation. *See Farmland Ins. Co.; Ford, supra*.

After reviewing the entire record *de novo*, therefore, the Full Commission affirms the administrative law judge's finding that the claimant did not prove she sustained a compensable injury. This claim is respectfully denied and dismissed.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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M. SCOTT WILLHITE, Commissioner

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MICHAEL R. MAYTON, Commissioner